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Presidential Documents

Title 3—

The President

Proclamation 8942 of March 22, 2013

Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 2013

By the President of the United States of America

A Proclamation

Each year, America celebrates Greek Independence Day to strengthen the bonds between the birthplace of democracy and the world's oldest republic. We recognize the enduring contributions of Greek Americans, woven into the fabric of our national life. And we reflect on the ancient Hellenic principles that inspired our Founders to vest the powers of government in the hands of the people.

In both America and Greece, we are inheritors to great republics, entrusted to safeguard the ideals that make representative government work. Our peoples have learned that democracy flourishes when we respect our differences, hold fast to the principles that unite us, and move forward with common purpose. It is a legacy lived by generations of Greek Americans, who for centuries have helped write proud chapters in our country's history and continue to enrich the character of our Nation.

Today, we congratulate Greece, a valued NATO ally, as it commemorates the 192nd anniversary of its independence, and we pledge our continued solidarity as the country works to rebuild its economy. In the face of hardship, America stands with the people of Greece, confident they can meet the challenges of the 21st century while upholding their ancient ideals.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim March 25, 2013, as Greek Independence Day: A National Day of Celebration of Greek and American Democracy. I call upon the people of the United States to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second 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. 2013–07171
Filed 3–26–13; 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 HOMELAND SECURITY

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[USCBP–2013–0011; CBP Dec. No. 13–06]

RIN 1651–AA96

Definition of Form I–94 To Include Electronic Format

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Interim final rule.

SUMMARY: The Form I–94 is issued by the Department of Homeland Security (DHS) to certain aliens and is used for various purposes such as documenting status in the United States, the approved length of stay, and departure. DHS generally issues the Form I–94 to aliens at the time they lawfully enter the United States. This rule adds a new definition of the term ''Form I–94'' that includes the collection of arrival/departure and admission or parole information by DHS, whether in paper or electronic format. The definition also clarifies various terms that are associated with the use of the Form I–94 to accommodate an electronic version of the Form I–94. This rule also adds a valid, unexpired nonimmigrant DHS admission or parole stamp in a foreign passport to the list of documents designated as evidence of alien registration. These revisions to the regulations will enable DHS to transition to an automated process whereby DHS will create a Form I–94 in an electronic format based on passenger, passport and visa information DHS currently obtains electronically from air and sea carriers and the Department of State as well as through the inspection process.

DATES: *Effective date:* This interim rule is effective April 26, 2013. In the event that CBP receives public comment that identifies a credible basis for the Agency to conclude that automation of the form I–94 should be delayed, CBP retains discretion to extend implementation for an additional thirty days. If CBP concludes that such extension is appropriate, the Agency will post the new implementation date on its Web site, *www.cbp.gov,* no later than April 29, 2013.

Comment date: Written comments must be submitted on or before April 26, 2013.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments via docket number.
- *Mail:* Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, Attention: Border Security Regulations Branch, 90 K Street NE., 10th Floor, Washington, DC 20229.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and additional information on this rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read comments received, go to *http://www.regulations.gov.* Submitted comments may also be inspected on regular business days between the hours of 9 a.m. and 4:30 p.m. at Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Suzanne Shepherd, CBP Office of Field Operations by telephone (202) 344–2073 or by email, *Suzanne.M.Shepherd@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this interim final rule. U.S. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this regulatory change. Comments that will provide the most assistance to CBP will reference a specific portion of the rule, explain the reason for any recommended change, and include data, information or authority that support such recommended change. Written comments must be submitted on or before April 26, 2013. CBP will consider those comments and make any changes appropriate after consideration of those comments. CBP expects to publish a final rule, which will respond to comments received, 18 months from the close of the comment period.

Executive Summary

The Form I–94 is issued by DHS to certain aliens upon arrival in the United States or when changing status in the United States. The Form I–94 is used to document arrival and departure and provides evidence of the terms of admission or parole. U.S. Customs and Border Protection (CBP), a component of DHS, generally issues the Form I–94 to aliens at the time they lawfully enter the United States. Aliens use the Form I–94 for various purposes such as completing employment eligibility verification (the Form I–9), applying for immigration benefits, or to present to a university to verify eligibility for enrollment. Information gathered on the Form I–94 is also used for statistical purposes.

Transition to an Automated Form I–94

The Form I–94 is currently a paper form. For aliens arriving by air or sea, the carrier distributes the Forms I–94 to the aliens required to complete the form while en route to the United States. The alien presents the completed form to the CBP Officer at primary inspection. The officer stamps the Form I–94 and the alien's passport, detaches the bottom portion of the form, which is the departure portion, and returns it to the alien along with the alien's passport. The admission stamp contains the port of arrival and date of arrival and is annotated with the class of admission

and admitted-to date. The top portion of the form—the arrival portion—is sent to a data entry facility where the information on the form is entered into CBP's computer systems. The departure portion of the Form I–94 retained by the alien may be shown to government or other stakeholders when required. The alien turns in the departure portion of the Form I–94 upon departure, generally to the carrier; the carrier returns the forms to CBP.

With the implementation of the Advance Passenger Information System (APIS [1]) following 9/11, CBP now collects information on aliens traveling by air or sea to the United States electronically from carriers in advance of arrival. As outlined in Table 1 below, nearly all the information collected on the Form I–94 is collected electronically via APIS. CBP also now uses the Arrival and Departure Information System (ADIS), which draws information from APIS, to electronically document an alien's arrival and departure. Thus, for aliens arriving in the United States by air or sea, CBP obtains almost all of the information contained on the paper Form I–94 electronically and in advance. The few fields on the Form I–94 that are not collected via APIS are either already collected by the Department of State and transmitted to CBP or will be collected by the CBP Officer from the individual at the time of inspection. Thus, the same data elements found on the paper Form I–94 will be collected and maintained in the electronic Form I–94. This means that CBP no longer needs to collect Form I–94 information as a matter of course directly from aliens traveling to the United States by air or sea.

Therefore, CBP is transitioning to an automated process whereby CBP will create an electronic Form I–94 based on the information in its databases. This rule makes the necessary changes to the regulations to enable CBP to transition to an automated process. At this time, the automated process will apply only to aliens arriving at air and sea ports of entry.[2] In order to make this a seamless transition, CBP is making the electronic Form I–94 available to aliens through a Web site.[3] To access the Form I–94 through the Web site the traveler will need to input information from his/her passport; thus, a third party without access to the traveler's passport will not be able to access the Form I–94 from the Web site. If needed, aliens may print out a copy of the Form I–94 from the Web site and present it to third parties in lieu of the departure portion of the paper form. CBP intends to continue to provide a paper Form I–94 to certain classes of aliens, such as certain refugees, asylees, and parolees, and others as requested or whenever CBP determines the issuance of a paper form is appropriate.

Though in some cases CBP collects APIS information for travelers arriving in the United States via methods of transportation other than commercial air and sea, CBP does not consistently receive APIS information for these other methods or in some instances is unable to consistently access the information at the time the traveler presents him or herself for inspection. Thus, at this time, CBP will still need to collect Form I–94 information directly from travelers arriving by other methods of transportation. CBP anticipates expanding the automation of the Form I–94 to other methods of transportation in the future.

Because the regulations that address the Form I–94 and its uses were written at a time when a paper form was the only option to collect arrival and departure information, many of these regulations contemplate only the use of the paper form. In order to enable CBP to transition from a paper Form I–94 to a CBP-created electronic Form I–94, CBP is adding a definition of ''Form I–94'' in 8 CFR part 1 that allows for the collection of Form I–94 information in either paper or electronic format. The definition also clarifies various terms in 8 CFR that are associated with the use of the Form I–94 to include the electronic version of the Form I–94.

The automation provides immediate and substantial benefits to the traveling public, to carriers, to CBP and other stakeholders. This automation will eliminate most of the duplicative paper Form I–94 process and reduce wait times at passenger processing, which will facilitate entry of all travelers. The automation will eliminate the paper Form I–94 for most air and sea travelers and, with it, the 8-minute time burden; this would result in an estimated total reduction of 9.6 million Forms I–94 completed by paper, and an estimated reduction of 1,276,800 paperwork burden hours. For more information on the reduction in the paperwork burden, see the Paperwork Reduction Act section below. The automation will also save the time and expense associated with lost Forms I–94, as travelers will simply be able to print out a new copy from the Web site if needed rather than file an I–102, as currently required, which has a fee of $330 and a time burden of 25 minutes. CBP estimates that the time to access the Web site and print the electronic Form I–94 to be 4 minutes.

Additionally, carriers will no longer have to print, store, and distribute the forms, and CBP will not have to process them. This will result in significant cost savings (benefits) for foreign travelers, carriers, and CBP. Guidance from the Office of Management and Budget (OMB) states regulatory analyses should focus on benefits and costs that accrue to citizens and residents of the United States.[4] In order to make this distinction clear, CBP provides costs and benefits of this rule to foreign travelers as well as to U.S. entities. CBP anticipates the total net benefits to both domestic and foreign entities in 2013 range from $76.5 million to $115.5 million. Separately, CBP anticipates a net benefit in 2013 of between $59.7 million and $98.7 million for foreign travelers, $1.3 million for carriers, and $15.5 million for CBP. Net benefits to U.S. entities (carriers and CBP) in 2013 total $16.8 million. CBP seeks comment on the potential benefits or costs of this rule for foreign travelers.

Background

The Form I–94

The DHS Form I–94 is generally issued to aliens at the time they lawfully enter the United States other than aliens traveling to the United States under the Visa Waiver Program,[5] or aliens who are otherwise exempt. *See* 8 CFR 235.1(h). The Form I–94 is also issued when an alien changes immigration status within the United States. The Form I–94 is used to document status in the United States, the authorized length of stay, and departure. Biographical information, visa and passport information, and the address and phone number where the alien can be reached while in the United States are also collected on the Form I–94. When an alien is admitted to the United States, the Form I–94 becomes the evidence of the terms of the admission. For aliens paroled into the

[1] For more information, please see: *http://www.cbp.gov/xp/cgov/travel/inspections_carriers_facilities/apis/*.

[2] Because CBP does not currently collect advance travel information from aliens arriving by land, this automation will not apply to land ports of entry at this time.

[3] DHS intends to publish a privacy impact assessment and make it available at *http://www.dhs.gov/privacy-documents-us-customs-and-border-protection*. For more information on the privacy implications please see the *Privacy* section of this document.

[4] See OMB Circular A–4, page 15 (*http://www.whitehouse.gov/sites/default/files/omb/assets/regulatory_matters_pdf/a-4.pdf*).

[5] The Form I–94 is not required for aliens seeking admission into the United States under the Visa Waiver Program (VWP). The Form I–94W is the form required for aliens seeking admission into the United States under the VWP. In 2009, the ESTA program automated the Form I–94W in the air and sea environments.

United States, the Form I–94 reflects the duration and classification of parole.

The Form I–94 has been used for approximately 50 years by DHS, its predecessor agencies, and external stakeholders for a variety of purposes. CBP and U.S. Immigration and Customs Enforcement (ICE), components of DHS, use the form to document arrival and departure, as well as class of admission or duration of parole. U.S. Citizenship and Immigration Services (USCIS), also a component of DHS, issues Forms I–94 to aliens extending their authorized length of stay or changing their immigration status while in the United States. USCIS also uses Form I–94 information to verify lawful admission or parole when adjudicating immigration benefit requests, confirming employment authorization for employers participating in USCIS's E-Verify program, or verifying immigration status for benefit granting state and federal government agencies participating in USCIS's Systematic Alien Verification for Entitlements (SAVE) program. The Form I–94 is also used by the Social Security Administration (SSA), state agencies, such as Departments of Motor Vehicles (DMV), and public assistance agencies and organizations, to verify eligibility for benefits. The form is used by certain aliens for evidence of lawful admission or parole, as well as, where applicable, employment eligibility and eligibility for public benefits. Information collected by the Form I–94 is also provided to the Department of Commerce (DOC) for statistical purposes, including use by the DOC Office of Travel and Tourism Industries to collect monthly visitation data and for reporting of travel by country of residence to comply with the United Nations World Tourism Organization recommendation for reporting arrivals to all countries.

Current Paper Form I–94 Process at Airports and Seaports

The paper Form I–94 consists of two parts, the arrival portion and the departure portion. Air and sea carriers print and store the Form I–94 and provide each alien passenger with a blank paper Form I–94.[6] Each alien arriving by air or sea for whom a Form I–94 is required completes both the arrival and departure portions of the form either en route or upon arrival in the United States. Each carrier is responsible for presenting a completed Form I–94 for each arriving alien to a CBP Officer. *See* 8 CFR 231.1. In practice, the carrier accomplishes this by ensuring that each passenger presents him/herself to a CBP Officer for inspection at a U.S. port-of-entry, generally with the aid of security protocols. The Form I–94 is then presented to the CBP Officer at primary inspection, along with the alien's passport and any other applicable documents and information. After the successful completion of the inspection process, a CBP Officer stamps the alien's Form I–94 and passport. The DHS admission stamp contains the port of arrival and date of arrival, and is annotated with the class of admission and the authorized length of stay. The parole stamp contains the port of arrival and date of arrival, and is annotated with the duration of parole and parole classification. The CBP Officer retains the arrival portion of the Form I–94 and returns the departure portion and the passport to the alien. The departure portion of the form is provided to the alien to retain in his or her possession for the duration of his or her stay and to surrender upon departure. In some circumstances, an alien is required to have the Form I–94 in his or her possession at all times while in the United States. Air and sea carriers are responsible for presenting a completed Form I–94 for each departing alien passenger to a CBP Officer. *See* 8 CFR 231.2(b). If the alien is departing by commercial air or sea carrier, he or she turns in the departure portion to the airline or shipping line prior to departure. The carrier then returns the form to CBP.

The information requested on the upper portion of the I–94, the arrival portion, includes:

- Family name
- First (Given) Name
- Birth Date
- Country of Citizenship
- Sex (Male or Female)
- Passport Issuance Date[7]
- Passport Expiration Date
- Passport Number
- Airline and Flight number (if applicable)
- Country Where You Live
- Country Where You Boarded
- City Where Visa Was issued
- Date Issued
- Address While in the United States (number, street, city, and state)
- Telephone Number in the United States Where You Can be Reached
- Email Address

The following information currently is requested on the lower portion of the Form I–94, the departure portion:

- Family Name
- First (Given) Name
- Birth Date
- Country of Citizenship

Once an alien is admitted to the United States, the Form I–94 is evidence of the terms of the admission. For aliens paroled into the United States, the Form I–94 includes the terms of parole. CBP collects the arrival portions of the Forms I–94 daily at each port of entry and boxes and mails them to a centralized data processing center for logging/processing/scanning, and data capture. The data is then uploaded to a CBP database. DHS components have access to the database that contains the Form I–94 information, and can use this database to verify an alien's admission or parole information and immigration status. Entities outside DHS, such as SSA or state DMVs, can verify information by querying a DHS system or contacting DHS.

Automation of the Form I–94 at Airports and Seaports

The Form I–94 was established prior to advances in technology and the implementation of security measures that enable CBP to collect advance arrival and departure information about passengers electronically. For aliens arriving in or departing from the United States by air or sea, the data elements collected on the paper Form I–94 duplicate the information that CBP collects through other mechanisms. As explained in this section (including Table 1), CBP collects this information from APIS, visa information and information provided to CBP at the time of inspection.

As a result of enhanced security measures implemented by CBP subsequent to the September 11, 2001 terrorist attacks, CBP regulations require commercial vessel carriers and commercial and private air carriers to electronically transmit advance manifest information regarding their passengers, crew members, and non-crew members (cargo flights only) arriving in and departing from the United States. Passengers, crew members, and non-crew members are required to submit certain biographical information to the carriers, which the carriers then collect and submit to CBP prior to the alien's arrival in or departure from the United States. The information is transmitted to CBP through APIS (including eAPIS,[8] as

[6] CBP also prints Form I–94s, which are available at ports of entry for travelers who may need an additional blank form.

[7] Passport issuance date, passport expiration date, telephone number, and email address are newer fields not found on all forms currently in circulation.

[8] eAPIS is a CBP web-based application that provides for the collection of electronic traveler

Continued

applicable). *See* 19 CFR 4.7b, 4.64, 122.22, 122.49a–122.49c, 122.75a, and 122.75b.

The information transmitted to CBP by carriers using APIS consists of information that appears on the biographical data page of travel documents, such as passports issued by governments worldwide, as well as carrier information. For passengers, APIS data consists of certain biographical information and conveyance details collected via the passenger reservation and check-in processes. The information submitted for each individual onboard the aircraft or vessel includes:

- Full name (last, first, and, if available, middle)
- Date of birth
- Gender (F = female; M = male)
- Citizenship
- Country of residence
- Status on board the aircraft/vessel
- Travel document type (e.g., P = passport, A = alien registration)
- Passport number, if a passport is required, or DHS-Approved travel document number, as applicable
- Passport country of issuance, if a passport is required, or DHS-Approved travel document country of issuance, as applicable
- Passport expiration date, if a passport is required, or DHS-Approved travel document expiration date, as applicable
- Alien registration number, where applicable
- Address while in the United States

In addition to the manifest information for each individual, the air or sea carrier also must provide information about the flight or voyage. The flight or voyage information the air or sea carrier must provide that is relevant to the Form I–94 is the airline and flight number and the place of departure.

Visa information is made available to CBP by the Department of State via the Consular Consolidated Database (CCD). At the time of inspection and admission or parole, the CBP Officer is able to collect additional data, such as email address, phone number, and updated address while in the United States. Table 1 below lists the source of each data element for the electronic Form I–94.

TABLE 1—SOURCES OF DATA FOR ELECTRONIC FORM I–94

Data element	Source for electronic Form I–94
Arrival Portion:	
Family name	APIS
First (given) name	APIS
Birth date	APIS
Country of citizenship	APIS
Sex (male or female)	APIS
Passport issuance date	APIS
Passport expiration date	APIS
Passport number	APIS
Airline and Flight number (if applicable).	APIS
Country where you live	APIS
Country where you boarded	APIS
City where visa was issued	State Department via CCD.
Date visa was issued	State Department via CCD.
Address while in the United States.	APIS, and may be updated at time of inspection.
Telephone number while in the United States.	Officer at time of inspection.
Email address	Officer at time of inspection.
Departure Portion:	
Family name	APIS
First (given) name	APIS
Birth date	APIS
Country of citizenship	APIS

Thus, for aliens arriving in the United States by air or sea, CBP obtains almost all of the information contained on the paper Form I–94 electronically from the carriers and the Department of State and is able to collect any additional fields from the individual at the time of inspection. This means that CBP no longer needs to collect Form I–94 information from these travelers as a matter of course. Therefore, CBP is transitioning to an automated process whereby CBP will create an electronic Form I–94 based on the information in its databases, which CBP will make available to the alien through the Web site: *www.cbp.gov/I94.* At this time, the automated process will apply only to aliens arriving at air and sea ports of entry. This is because the electronic record draws largely from APIS information submitted by air and sea carriers. CBP will continue to provide a paper Form I–94 to those who request such form, as well as to certain classes of aliens, such as certain refugees, asylees, and parolees, and whenever CBP determines the issuance of a paper form is appropriate. For these individuals arriving by air and sea carriers, an electronic Form I–94 will also be created.

The electronic Form I–94 will be created during the inspection process at the time of admission or parole when the CBP Officer pulls information from the traveler's APIS record and any CCD record, and enters any additional data obtained during the inspection process. The same data elements found on the paper Form I–94 will be collected and maintained in the electronic Form I–94. Any information the officer would have written or stamped on the paper form at the time of admission or parole can be entered into the electronic form. The departure record is created from APIS using the Arrival and Departure Information System (ADIS) to match the departure to the correct arrival record.

Alien travelers will be able to access and print their electronic Form I–94 via the Web site CBP has established for this purpose: *www.cbp.gov/I94.* Travelers to whom an electronic Form I–94 has been issued will be able to log on to the Web site using identifying information and print a copy of the electronic Form I–94. In order to access the Form I–94 from the Web site, the traveler will be required to enter information from his or her passport; thus, a third party without access to the traveler's passport will not be able to access the Form I–94 from the Web site. The printout from the Web site will be the functional equivalent of the departure portion of the paper form and will contain the same information as the departure portion of the paper form. CBP will continue to stamp the traveler's passport at the time of inspection and any admission or parole and will annotate the stamp with the class of admission or parole and duration of admission or parole. CBP will distribute a tear sheet to each alien who is issued an electronic Form I–94 at the time of inspection with information about the Web site and procedures for obtaining a printout to the alien upon arrival in the United States.

Aliens who may be required to present the Form I–94 to a third party for some purpose, such as employment or benefit eligibility, may present the printout from the Web site. For example, nonimmigrants who are employment authorized incident to status (see, e.g., nonimmigrants listed at 8 CFR 274a.12(b)) may print a copy of their electronic Form I–94 for evidence of employment authorization. The printout is the equivalent of the paper Form I–94 acceptable to present to

manifest information for international travel both in to and out of the United States. eAPIS collects and passes electronic manifests to APIS.

employers to comply with the Employment Eligibility Verification form (Form I–9) requirements. As discussed in detail in the 12866 section below, because so many parties at various levels of government and outside of the government use the Form I–94, we cannot estimate the number of aliens who use the Form I–94 for these purposes. For the 12866 analysis, we assume that all non-B–1/B–2 travelers (about 26 percent of the total) will need to use the Form I–94 for some purpose. See INA section 274A(a)(1)(B), 8 U.S.C. 1324a(a)(1)(B); 8 CFR 274a.2(b)(1)(v)(A)(5) and (b)(1)(v)(C)(8).

As described more fully in the section entitled ''*Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review),''* the elimination of the paper Form I–94 in the air and sea environments has many benefits. Carriers will no longer have to print, store, and distribute the paper form to its alien passengers or collect the form when the alien departs. These aliens will not have to complete the form when arriving in the United States or turn in the form when they depart the United States. Additionally, an alien will have the convenience of being able to access his or her form electronically, and will be able to print a new copy if one is lost, or to print multiple copies if needed. CBP will not have to collect the forms, stamp them, return the departure portion to the alien and manually enter the Form I–94 information into its database. This streamlines CBP's inspection process. The effect will be the elimination of most of the duplicative paper Form I–94 process and the reduction of wait times at passenger processing, which will facilitate entry of all travelers.

Because the Form I–94 is used for various purposes, CBP has been working closely with other DHS components and other government stakeholders to ensure that the transition to the automated Form I–94 is as smooth as possible and done in a manner that addresses the needs of these stakeholders. For the past year, CBP has been meeting regularly with stakeholders, including U.S. Government agencies, DMVs, and universities, on all aspects of automating the Form I–94 to ensure that stakeholders are prepared for the additional acceptance of the electronic Form I–94. For stakeholders that rely on the Form I–94 for immigration status verification or other purposes, a benefit of automation is that the electronic version of the Form I–94 is immediately available to them through their connections to CBP's database. By contrast, with the paper form, there is typically a lag time of approximately five business days or longer between arrival, data entry, and the availability of the records on the CBP database. CBP anticipates that most stakeholders will not require a change to their operations as a result of this automation. Government stakeholders will continue to access an alien's Form I–94 information in the same way that they currently do: Through their connection to CBP's database. For stakeholders who now access the Form I–94 information when the alien presents his or her form, the process will also not meaningfully change; the alien will now simply present a printout from the Web site rather than the departure portion of a paper Form I–94. CBP seeks comments from these stakeholders on the above assumptions.

Regulatory Change: New Form I–94 Definition

Many provisions in 8 CFR refer to the Form I–94 and its use. However, because these regulations were written at a time when a paper form was the only option to collect arrival and departure information, many of these regulations contemplate only the use of the paper form. In order to enable CBP to transition from a paper Form I–94 to a CBP-created electronic Form I–94, CBP is adding a definition of ''Form I–94'' in 8 CFR part 1 that allows for the collection of Form I–94 information in either paper or electronic format. It provides that ''[t]he term *Form I–94''* ''includes the collection of arrival/departure and admission or parole information by DHS, whether in paper or electronic format, which is made available to the person about whom the information has been collected, as may be prescribed by DHS.'' 8 CFR 1.4.

As discussed earlier, CBP, USCIS, ICE, and other government agencies use the Form I–94 in a variety of ways, many of which are specified in 8 CFR. For example, the form is included in the list of acceptable documentation that may be presented to employers to demonstrate employment authorization during the employment eligibility verification process (Form I–9). The Form I–94 is also necessary for completing USCIS forms requesting immigration benefits, such as the Application to Register Permanent Residence or Adjust Status (Form I–485), or when seeking the admission of an alien for the duration of an unexpired period of a previous admission.[9] Therefore, the definition of ''*Form I–94''* also clarifies the various terms in 8 CFR that are associated with the use of the Form I–94 to include the electronic version of the Form I–94. For example, the definition specifies that ''presentation'' of the Form I–94 includes providing a printout of the electronic record. ''Issuance'' of the Form I–94 includes the creation of the electronic Form I–94 for a traveler. To comply with regulations requiring the alien to turn in the departure portion of the Form I–94 at the time of departure, the definition provides that in the case of an alien with an electronic Form I–94, he or she must comply with any DHS departure controls. The carrier providing departure conveyance must submit departure information to CBP for each departing alien.

As described in the section entitled ''*Current paper Form I–94 process at airports and seaports,''* sections 231.1 and 231.2 of the DHS regulations require air and sea carriers to submit a completed Form I–94 for each arriving alien and to submit the departure portion of this Form I–94 for each departing alien. Because these sections concern the carriers rather than the nonimmigrant aliens directly, the terms ''present,'' ''submit,'' and ''submission'' used elsewhere in the DHS regulations pertaining to the Form I–94 are employed somewhat differently in sections 231.1 and 231.2. Thus, the definitions of these terms for the purposes of sections 231.1 and 231.2 are tailored to this unique situation. For purposes of section 231.1, the terms ''present'' or ''submission'' of the Form I–94 includes ensuring that each passenger presents him/herself to a CBP Officer for inspection at a U.S. port-of-entry. This definition reflects the carriers' current practice for arriving passengers, as also discussed in the section on ''*Current paper Form I–94 process at airports and seaports.''* For the purposes of section 231.2, the terms ''present,'' ''submit,'' or ''submission'' of the Form I–94 include ensuring that each passenger is available for inspection by a CBP Officer upon request.

CBP is also amending section 264.1(b) to add to the list of documents that constitute evidence of registration of a valid, unexpired nonimmigrant DHS admission or parole stamp in a foreign passport. Additionally, for clarity, CBP is amending provisions throughout 8 CFR to include a reference to the new definition immediately following the

[9] Seeking admission for the duration of an unexpired period of a previous admission is referred to as automatic revalidation. Pursuant to 8 CFR 214.1 and 22 CFR 41.112, automatic revalidation applies to unexpired nonimmigrant visas of aliens who have been out of the United States for thirty days or less in a contiguous territory.

first use of the term ''Form I–94'' in a section. This is to ensure that those reading these provisions are aware that the new definition exists.

Statutory and Regulatory Requirements

Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is a ''significant regulatory action,'' under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has reviewed this regulation.

This rule results in substantial cost savings (benefits) for travelers, carriers, and CBP. CBP anticipates the total net benefits to both domestic and foreign entities in 2013 range from $76.4 million to $115.5 million.[10] Separately, CBP anticipates a net benefit in 2013 of between $59.7 million and $98.7 million for foreign travelers, $1.3 million for carriers, and $15.5 million for CBP. Net benefits to U.S. entities (carriers and CBP) in 2013 total $16.8 million. The following discussion provides an assessment of costs, benefits, and net impacts of the rule.

1. Baseline Condition

A Form I–94 is generally provided during the inspection process at the time of admission or parole for any alien who is not arriving in the United States under the Visa Waiver Program, unless otherwise exempt. When arriving by air and sea, the carrier provides the form to the alien while en route to the United States. The alien typically completes the form while en route to the United States. The Form I–94 takes the alien approximately 8 minutes to fill out, according to CBP's Paperwork Reduction Act time burden estimate. Upon arrival at the airport or seaport, the alien presents the completed Form I–94 to the CBP Officer for inspection. The officer tears the form at the perforation, stamps the lower portion, and returns it to the alien. The officer sends the top portion of the form to a centralized facility where all Forms I–94 are entered into CBP's systems. The alien later returns the lower portion of the Form I–94 to the carrier when departing the United States, who in turn returns it to CBP.

A third party, such as a university or a local or state government benefit-granting agency, may require an alien to present evidence of admission or parole to the United States. In these cases, the alien may present the bottom portion of the Form I–94, which was returned to them when they were admitted, paroled, or granted their immigration status. Aliens may also choose to present Form I–94 to establish employment eligibility and identity or eligibility for certain public benefits.

If an alien loses the bottom portion of the Form I–94, he or she may file Form I–102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Document, with USCIS to request a replacement. The form has a Paperwork Reduction Act burden of 25 minutes and a fee of $330. According to the USCIS, 17,700 Forms I–102 are filed each year. CIS expects this to decrease to 8,804 in fiscal year 2013 and 5,771 in subsequent years.[11] The 2013 numbers are higher because the projection is done on a fiscal year basis and includes several months before this rule is in effect. For the purpose of this analysis, we assume that rule will result in only 5,771 Forms I–102, which is a reduction of 11,929 from the current estimate.

According to the Office of Immigration Statistics (OIS),[12] about 46.4 million aliens entered the United States using a Form I–94 or equivalent in 2010. Of these, about 18.2 million entered under the Visa Waiver Program (VWP). These aliens do not use a Form I–94 and are therefore unaffected by this rule,[13] so we exclude them from this analysis. Additionally, OIS figures include all modes of transportation. This rule affects only aliens arriving by air and sea, so we must exclude those arriving by land. We therefore subtract the number of aliens entering the U.S. at land border ports using a Form I–94 in 2010. According to CBP's Office of Field Operations, about 11.5 million aliens arriving from Mexico and 1.3 million arriving from Canada entered the United States at the land border using a Form I–94 in 2010. We subtract these from the total, leaving 15,360,126 non-VWP aliens who arrived in the U.S. by air or sea using a Form I–94 in 2010.

We next estimate the number of I–94 travelers in future years. To do this, we use the traveler projections developed by the Office of Travel and Tourism Industries (OTTI) within the U.S. Department of Commerce. The OTTI forecasts travel for most countries through 2016. The vast majority of travelers from most countries arrive by air and sea, so we assume that air traveler growth rates are the same as those for the total traveler population. For Mexico and Canada, we subtract the number of I–94 travelers arriving by land in 2010 before applying the projected growth rates.[14] We apply the OTTI projected growth rates to the number of Forms I–94 by country we obtained from OIS. We present the total number of projected Forms I–94 for each year from 2010–2016 in Exhibit 1 below.

EXHIBIT 1—PROJECTED I–94 AIR AND SEA TRAVELERS

2010	15,360,126
2011	16,586,753
2012	17,868,246
2013	19,339,773
2014	20,875,058
2015	22,672,552
2016	24,495,264

We next estimate the costs and benefits of this rule for all affected parties. For the purposes of this analysis only, we assume the rule went into effect on January 1, 2013. To the extent the rule goes into effect after this date, costs and benefits will be lower. The period of analysis for this rule is 2012 to 2016, the last year for which OTTI has projected annual U.S. visitor growth rates.

[10] OMB Circular A–4 states regulatory analyses should focus on benefits and costs that accrue to citizens and residents of the United States (*http://www.whitehouse.gov/sites/default/files/omb/assets/regulatory_matters_pdf/a-4.pdf*; see ''Scope of Analysis'' section on page 15). In order to make this distinction clear, CBP has shown the costs and benefits to foreign travelers as well as impacts to U.S. entities.

[11] Source: Communication with USCIS on February 8, 2013.

[12] Source: 2010 Yearbook of Immigration Statistics. Table 28. *http://www.dhs.gov/files/statistics/publications/yearbook.shtm*

[13] In addition to automating the I–94, this rule adds a valid, unexpired nonimmigrant DHS admission or parole stamp to the list of documents that constitute evidence of registration. Thus, upon implementation of this rule, such a stamp could serve as evidence of registration for Visa Waiver Program travelers and for travelers arriving by land who would otherwise be required to comply with any registration requirement under the INA. However, the addition of the passport stamp to the list of documents that constitute evidence of registration does not have an economic impact on travelers. Therefore, this analysis focuses on the changes to the I–94.

[14] For the purposes of these projections, we assume that aliens arriving from Mexico and Canada at land borders are Mexican and Canadian citizens. There are a small number of citizens of other countries who enter the U.S. at land borders. Because the number for each country is small, the effect on the projections is minimal.

2. Costs

We now examine the costs of this rule to CBP. CBP seeks comments on the assumptions discussed below. If implemented, the costs of this rule will be borne by both CBP and aliens traveling to the United States. This rule would automate the paper Form I–94 in the air and sea environments.[15] Almost all of the traveler information collected on the Form I–94 is redundant because CBP already obtains the same information electronically from other sources. In advance of the implementation of this rule, CBP has linked its data systems to use the information from these alternate sources to create an electronic Form I–94 during the admissions process. CBP will create the electronic Form I–94 by pulling information from the traveler's APIS record and any CCD record and by entering any additional data obtained during the inspection process. This electronic process will also allow stakeholders that currently have access to CBP's databases to continue to have access to traveler information electronically. CBP estimates the cost to link data systems and to fully automate the Form I–94 to be about $1 million in calendar year 2012. In addition, it estimates the cost to develop the secure Web site to be about $321,000 in 2012. CBP anticipates spending $92,000 per year in operations and maintenance costs for these systems. In total, CBP anticipates this rule will cost the agency $1,321,000 in 2012 and $92,000 in following years.

We next examine the costs of this rule that will be borne by travelers to the United States. While most travelers do not use the Form I–94 for any reason once they are admitted or paroled to the United States, others do make use of the form to demonstrate lawful admission or parole to the United States to universities, DMVs, or some other party. Aliens may also choose to present a Form I–94 to establish employment eligibility and identity, or eligibility for certain public benefits. To accommodate this need for a Form I–94, CBP will make an electronic Form I–94 available to aliens on a secure Web site. Travelers will receive written information on how to access the Web site upon their arrival to the United States. Aliens may log into the Web site using 7 pieces of basic identifying information that is either known to the traveler (their first name, last name and date of birth) or readily available on their passport (passport number, country of issuance, date of entry, and class of admission). CBP estimates that it will take the traveler 4 minutes to log into the Web site using identifying information and print the electronic form. This is less time than the paper Form I–94's 8 minute time burden for entering the 17 data elements. This 4 minute estimate does not include the time it takes to travel to a location with computer and Internet access; that cost is treated separately later in this section. In addition, CBP will continue to make the paper Form I–94 available at ports of entry to certain classes of aliens and upon request, though CBP does not anticipate that many travelers will request the paper form.

To estimate the costs to travelers to access their Form I–94 electronically, we must first determine the number of aliens who will access the Web site, the number who do not have ready access to the Internet, the distance they would have to travel to access the Internet, and the average wage rate for all aliens entering the United States by air or sea. First, we assess the number of aliens who will access the Web site. Exhibit 2 shows the number of travelers who entered the United States by air or sea in 2010 sorted by various categories of admission.[16] The majority of Form I–94 visitors to the United States—about 74 percent—are tourists and business travelers entering on B–1/B–2 visas. These visitors do not have a need for their Form I–94 now that the passport stamp will serve as evidence of alien registration. While in the U.S., these B–1/B–2 visa travelers may use their foreign driver's license, so there is no need for them to apply for a U.S. driver's license. They are ineligible for employment or enrollment in a university while traveling on a B–1/B–2 visa. They are generally not eligible for public benefits without a change in status. If B–1/B–2 travelers change their status with USCIS, they will receive a paper Form I–94. Therefore, for the purposes of this analysis, we assume that no B–1/B–2 travelers will need to access the Web site.

EXHIBIT 2—2010 AIR AND SEA I–94S BY CLASS OF ADMISSION

	Number	Percentage
Tourists and Business Travelers (B–1/B–2)	11,352,569	73.9
Students	1,526,786	9.9
Temporary workers	1,523,039	9.9
Other/Unknown	624,181	4.1
Diplomats	333,550	2.2
Total	15,360,126	

Because so many parties at various levels of government and outside of the government use the Form I–94, CBP cannot estimate how many aliens who are not B–1/B–2 travelers will access the Web site. As noted above, CBP will continue to make the paper Form I–94 available at ports of entry upon request. Those with a need for a Form I–94 and who face obstacles to electronic access of their Form I–94 may request a paper I–94 upon arrival at the port of entry. Because we do not know how many people need a physical copy of their Form I–94 or how many face obstacles to accessing their electronic I–94, for the purposes of this analysis, we assume that every traveler, other than B–1/B–2 travelers, who currently receives a paper Form I–94 will log into the Web site to print off their electronic Form I–94. In 2010, we estimate this to be 4,007,557 travelers. To the extent that some of these aliens do not access the Web site, costs will be lower.

We next estimate the number of aliens who do not have ready access to the Internet while in the United States and would need to travel to access their electronic Form I–94. We assume that students and diplomats have ready access to the Internet at their schools or places of business, respectively. Also, as noted above, CBP will continue to make the paper Form I–94 available at ports of entry upon request. Those with a need for a Form I–94 and who face obstacles to accessing their electronic Form I–94 may request a paper I–94 upon arrival at the port of entry.

Temporary workers come to the United States for varying lengths of time to fill positions where there is a shortage of labor in the United States. These positions can be in very highly technical occupations, such as computer programming, but can also be in less technical occupations, such as agricultural labor. Because this category of admission includes such a wide range of workers, we cannot say with certainty that all temporary workers have ready access to the Internet while in the United States. Similarly, we do not know how accessible the Internet is for those in the ''Other/Unknown''

[15] A small number of Forms I–94 will still be used for certain aliens such as refugees, applicants for asylum, parolees, and those who request a paper Form I–94.

[16] Source: CBP analysis of data from 2010 Yearbook of Immigration Statistics. Table 28.*http://www.dhs.gov/files/statistics/publications/yearbook.shtm*

category. The aliens least likely to have Internet access are those working as temporary agricultural laborers. According to the U.S. Department of Agriculture (USDA), approximately 62 percent of farms have Internet access.[17] The primary use for the electronic Form I–94 for these workers is to demonstrate employment eligibility to their employers. Until the workers present a copy of their electronic Form I–94 to their employer, they are not able to work. The employers have spent a considerable amount of money bringing the employee to the country to work. Allowing the employee to use the Internet to access their electronic Form I–94 will allow the employee to begin working sooner. Because this incremental use of the Internet is virtually costless to the employer and the employer would benefit from their employee's prompt access to their electronic Form I–94, we assume that employers with Internet access will allow their employees to use their Internet connection to access their electronic Forms I–94.[18] As stated previously, 62 percent of farms have Internet access. For the purposes of this analysis, we assume that 38 percent (100 percent minus 62 percent) of travelers in the ''Temporary Workers'' and ''Other/Unknown'' categories (815,944 travelers in 2010) would need to travel to access their electronic Form I–94. CBP seeks comment on these assumptions. Once again, we note that CBP will continue to make the paper Form I–94 available at ports of entry upon request. CBP intends to have a considerable outreach effort in place by the time that this rule is effective including outreach to airlines and travelers to communicate that requesting a paper Form I–94 continues to be an option. Those with a need for a Form I–94 and who face obstacles to electronic access of their Form I–94 may request a paper I–94 upon arrival at the port of entry. To the extent that they request paper I–94s, the number of aliens who will need to travel to a place where they can access the Internet will be lower.

Now that we have estimated the number of aliens who do not have ready access to the Internet, we need to develop an assumption for how long it takes to travel to a location where they can access the Internet. Based on our online review of Internet services provided by public libraries, we found public libraries provide public access to computers and the Internet, though many charge a nominal fee for printing. There are 16,698 public libraries in the United States.[19] According to the Department of Education, 94 percent of households live within 10 miles of a public library and 83 percent live within 5 miles of one.[20] Because of the large number of locations nationwide that provide access to the Internet and the fact that CBP will continue to make the paper Form I–94 available at ports upon request, we believe most aliens will have to travel only a short distance to access the Internet. We estimate that round-trip travel to a public library to access a computer terminal will be 20 miles and will take 60 minutes of an alien's time, which includes the time to enter the library and locate an available computer and any wait time to access a computer. In this analysis, we assume that users pay $0.25 to print their electronic Form I–94 based on a review of available online printing fees charged at public libraries.

We next estimate the value of time for those travelers affected by this rule. Federal agencies typically estimate a monetary value of time used or saved as a result of their regulatory actions. This allows agencies to estimate the additional costs and benefits of their regulatory actions on affected parties. The U.S. Department of Transportation (DOT) provides guidance on the value of time to use for economic analysis.[21] This guidance provides point estimates as well as ranges for values of time for travelers based on average wage rate analysis for different categories of travel. According to DOT estimates, the value of travel time is more than twice as high for air travelers than for those traveling by surface modes, which can be explained by the relatively high cost of air travel. We note that these DOT estimates are intended to be used to analyze actions that will reduce the time spent traveling. A person's value of time while traveling may differ from their value of reducing travel time. In most instances, this rule will not reduce the time spent traveling because the Form I–94 is typically completed while en route to the United States, but rather reduces the time spent on paperwork while traveling. The traveler will now be able to spend this time on leisure or business activities such as reading or drafting documents. CBP believes that using the DOT values of travel time in this situation is the most appropriate estimate because it reflects the higher values of time for air travelers. Further, we note that to the extent a person's value of time while traveling is different than their value of reducing travel time, this difference is likely encompassed in the DOT plausible range for the value of travel time. We request comments on the value of time used in this analysis.

As a primary estimate, we use the DOT's point estimate for the value of time for all-purpose air travel, which includes both personal and business travel. This point estimate is $42.10. We also use the DOT's range for all-purpose travel to show a range of low and high estimates. This range is from $34.80 to $52.20. We apply these values of time to the travelers in our analysis.[22]

However, we recognize that those who must travel to access the internet are a special case of travelers and probably have different values of time than the average air traveler. As previously discussed, the aliens least likely to have internet access are those working as temporary agricultural laborers. To estimate the value of time for these aliens, we use the wage rate for H–2A temporary workers. H–2A workers are seasonal agricultural workers. According to the Department of Labor, H–2A workers have an average wage rate of $9.50 per hour.[23] We recognize that there are other classes of temporary workers, notably H–1B visa holders, who likely have higher wage rates. However, these workers are predominantly in specialized occupations such as medicine and computer programming and are likely to have ready access to the internet.

Now that we have estimated the number of aliens who will log into

[17] Source: ''Farm Computer Usage and Ownership, ''United States Department of Agriculture National Agricultural Statistics. August 2011. Available at: *http://usda01.library.cornell.edu/usda/current/FarmComp/FarmComp-08–12–2011.pdf.*

[18] It is also possible that some employers without Internet access will help transport their employees to a location with Internet access. Employers have expended considerable effort to sponsor temporary workers and they may view this as part of the cost of using foreign temporary workers. However, as the burden of demonstrating employment eligibility is on the worker, we assume that the worker must bear any travel costs to obtain their electronic Form I–94. To the extent that the employer is able to provide more efficient access to the Internet, costs will be lower.

[19] Source: American Library Association. *http://www.ala.org/tools/libfactsheets/alalibraryfactsheet01* Accessed May 7, 2012.

[20] Source: Department of Education: Households' Use of Public and Other Types of Libraries: 2002. Derived from Table 19. Available at *http://harvester.census.gov/imls/pubs/Publications/2007327.pdf.*

[21] Source: U.S. Department of Transportation: ''Revised Departmental Guidance on Valuation of Travel Time in Economic Analysis.'' September 28, 2011. Table 5. Available at *http://ostpxweb.dot.gov/policy/reports.htm.*

[22] We use this travel value of time framework to estimate the costs and savings of this rule, since affected aliens previously completed the paper form I–94 while travelling.

[23] Source: Calculated from Department of Labor data: available at *http://www.foreignlaborcert.doleta.gov/quarterlydata.cfm.* Accessed on May 8, 2012.

CBP's Web site to print their electronic Form I–94, the time it takes to access that Web site, the number of people who will need to travel to access the internet, the time it will take to travel to and from an internet access site, and the values of time for these groups, we can calculate this rule's cost to these travelers. We first address the cost to log into CBP's electronic Form I–94 Web site. Once again, CBP estimates that it will take travelers 4 minutes to access and print their electronic Form I–94, and that it costs them $0.25 per page to print their electronic Form I–94. Exhibit 3 shows the 2013–2016 travelers' costs for accessing and printing their electronic Forms I–94. The findings in Exhibit 3 assume that all travelers, except B–1/B–2 travelers, will access and print their electronic Forms I–94.[24] As shown, in 2013, traveler costs of time to access electronic I–94s and their cost to print it would range from $13.0 million to $18.8 million, with a primary estimate of $15.4 million.

EXHIBIT 3—TRAVELER COSTS OF TIME TO ACCESS AND COST TO PRINT ELECTRONIC I–94 *

	2013	2014	2015	2016
I–94s	5,047,681	5,448,390	5,917,536	6,393,264
DOT—Low ($)	34.80	34.80	34.80	34.80
DOT—Primary ($)	42.10	42.10	42.10	42.10
DOT—High ($)	52.20	52.20	52.20	52.20
Time Cost—Low ($)	11,710,620	12,640,265	13,728,684	14,832,372
Time Cost—Primary ($)	14,167,158	15,291,815	16,608,551	17,943,761
Time Cost—High ($)	17,565,929	18,960,397	20,593,026	22,248,559
Printing Cost ($)	1,261,920	1,362,098	1,479,384	1,598,316
Total Cost—Low ($)	12,972,540	14,002,362	15,208,068	16,430,688
Total Cost—Primary ($)	15,429,078	16,653,912	18,087,935	19,542,077
Total Cost—High ($)	18,827,850	20,322,495	22,072,410	23,846,875

* Estimates may not total due to rounding.

We next address the travel cost for those aliens who do not have ready access to the internet. Once again, we assume that 38 percent of travelers in the ''Temporary Workers'' and ''Other/Unknown'' categories (see exhibit 2) would need to travel 20 miles and 60 minutes to access their electronic Form I–94, that their values of time are best characterized by the average H2A wage rate. For the cost of travel, we use the IRS standard mileage rate for business travel of 55.5 cents per mile.[25] Exhibit 4 shows the 2013–2016 aliens' travel costs to access the internet. As shown, in 2013, total travel costs would be $21.2 million.

EXHIBIT 4—TRAVEL COSTS*

	2013	2014	2015	2016
Affected Aliens	1,028,876	1,110,553	1,206,180	1,303,148
H2A Wage Rate ($)	9.50	9.50	9.50	9.50
Time Cost ($)	9,774,321	10,550,254	11,458,708	12,379,907
Mileage Cost ($)	11,420,523	12,327,139	13,388,595	14,464,944
Total Travel Cost ($)	21,194,844	22,877,393	24,847,303	26,844,850

*Estimates may not total due to rounding.

To summarize, both CBP and aliens would bear costs as a result of this rule. CBP would bear costs to link its data systems and to build a Web site so aliens can access their electronic Forms I–94. Aliens arriving as diplomats and students would bear costs when logging into the Web site and printing electronic I–94s. Using the primary estimate for a traveler's value of time, these costs average $3.06 per diplomat and student traveler in 2013. The temporary workers and aliens in the ''Other/Unknown'' category (see Exhibit 2) bear costs when logging into the Web site, traveling to a location with public internet access, and printing a paper copy of their electronic Form I–94. These costs average $23.66 per traveler in 2013 for the temporary worker and ''Other/Unknown'' category of travelers. Exhibit 5 summarizes the 2012–2016 costs of this rule. As shown, costs for this rule for 2013 would range from $34.2 million to $40.1 million. In our primary estimate, costs for this rule are $36.7 million in 2013. Less than one percent of these costs are incurred by the U.S. entities. These are CBP's costs for automating the electronic Form I–94 and developing the Web site travelers will use to access their electronic Form I–94. In 2013, CBP's costs are $92,000. CBP seeks comment on these costs and their underlying assumptions.

EXHIBIT 5—COST SUMMARY ($)*

	2012	2013	2014	2015	2016
CBP Costs	1,321,000	92,000	92,000	92,000	92,000
Traveler Costs:					

[24] The annual estimates of I–94s in Exhibit 3 are based on projections for all travelers, except B–1/B–2 travelers, developed by the Office of Travel and Tourism Industries within the U.S. Department of Commerce.

[25] Source: Internal Revenue Service. IR–2011–116, December 9, 2011. Available at *http://www.irs.gov/newsroom/article/0,,id=250882,00.html.*

EXHIBIT 5—COST SUMMARY ($)*—Continued

	2012	2013	2014	2015	2016
Website Access Costs—Low	0	11,710,620	12,640,265	13,728,684	14,832,372
Website Access Costs—Primary	0	14,167,158	15,291,815	16,608,551	17,943,761
Website Access Costs—High	0	17,565,929	18,960,397	20,593,026	22,248,559
Printing Costs	0	1,261,920	1,362,098	1,479,384	1,598,316
Travel Time Costs	0	9,774,321	10,550,254	11,458,708	12,379,907
Mileage Costs	0	11,420,523	12,327,139	13,388,595	14,464,944
Total Traveler Costs—Low	0	34,167,384	36,879,756	40,055,371	43,275,539
Total Traveler Costs—Primary	0	36,623,922	39,531,305	42,935,239	46,386,927
Total Traveler Costs—High	0	40,022,694	43,199,888	46,919,713	50,691,725
Grand Total Costs—Low	1,321,000	34,259,384	36,971,756	40,147,371	43,367,539
Grand Total Costs—Primary	1,321,000	36,715,922	39,623,305	43,027,239	46,478,927
Grand Total Costs—High	1,321,000	40,114,694	43,291,888	47,011,713	50,783,725

*Estimates may not total due to rounding.

3. Benefits

If implemented, this rule would have benefits for CBP, carriers, and travelers to the United States. We first examine the benefits of this rule for CBP. Currently, CBP returns the bottom portion of the Form I–94 to the traveler and retains the top portion of the form. The information on the top portion of the form is entered into CBP systems for use by CBP and other agencies. CBP also gets this information electronically from other sources. CBP has linked its data systems so that CBP can create an electronic Form I–94. Therefore, there is no longer any need to continue entering the data from the paper Form I–94 for air and sea travelers into CBP systems. CBP spends approximately $17.8 million per year on contract support for this task. CBP will still need to spend approximately $2.4 million to enter data from the paper Forms I–94 collected at the land border and the few that will continue to be collected at airports and seaports. We therefore estimate that this rule would save CBP $15.4 million a year in contract costs.

CBP processing would also become more efficient as a result of this rule. Currently, when the traveler gives the completed Form I–94 to the CBP Officer at inspection, the officer reviews the form for errors and makes corrections as needed. The officer then stamps the top and bottom portions of the form with an admission or parole stamp, writes the classification and duration of admission or parole and staples it to the traveler's passport. This rule would eliminate this process for most travelers. To the extent that eliminating the paper Form I–94 will reduce processing times, CBP will be able to focus its resources on other areas, improving security and expediting the processing of passengers. CBP will monitor the processing times as a result of this rule to ensure that resources are allocated efficiently. CBP's final rule will include information regarding current processing times that reflect the use of the automated I–94.

We next examine the printing savings this rule will generate for CBP and carriers. Currently, both CBP and carriers print and store Forms I–94. CBP prints forms for use in primary and secondary passenger inspections when the traveler has not filled out a form in advance or when the traveler has made an error in filling out the form. In FY 2011, CBP spent $153,306 printing the Form I–94 for air and sea travelers. If this rule is implemented, CBP would no longer need to print the Form I–94 for most of these travelers,[26] which would eliminate this expense.

Carriers print the forms for their passengers to complete before their arrival in the United States. To estimate printing costs for carriers, CBP obtained an estimate of total Form I–94 printing and storage costs from a major airline. We increased this cost proportionally based on annual international inbound passenger volumes to estimate the entire industry cost. Based on this methodology, CBP estimates that carriers spend $1,344,450 annually to print and store the Form I–94. If this rule is implemented, carriers would no longer need to print and store the Form I–94, which would eliminate this expense.

We next estimate the value of air and sea travelers' time savings resulting from the elimination of the paper Form I–94. Currently, travelers spend 8 minutes filling out the Form I–94 while in transit to the United States. If implemented, this rule would eliminate the paper Form I–94 for air and sea travelers and, with it, their 8-minute time burden.[27] We again apply the DOT range of plausible values of time for air travelers, as well as their point estimate for this value, to these aliens. Exhibit 7 shows the 2013–2016 travelers' reduction in time burden resulting from no longer needing to fill out the paper Form I–94. As shown, in 2013, the value of the reduction in time burden would range from $89.7 million to $134.6 million. In our primary estimate, the reduction in time burden would be $108.6 million in 2013.

EXHIBIT 7—REDUCTION IN TIME BURDEN*

	2013	2014	2015	2016
I–94s	19,339,773	20,875,058	22,672,552	24,495,264
DOT—Low ($)	34.80	34.80	34.80	34.80
DOT—Primary ($)	42.10	42.10	42.10	42.10
DOT—High ($)	52.20	52.20	52.20	52.20
Benefit—Low ($)	89,736,549	96,860,267	105,200,642	113,658,027
Benefit—Primary ($)	108,560,595	117,178,657	127,268,592	137,500,084

[26] CBP will still print a small number of forms for use at airports and seaports for certain aliens such as refugees, asylees, parolees, and those who request a paper Form I–94.

[27] For those with a need to access their electronic Form I–94, this burden relief is partially offset by the 4 minute time burden to access the Web site. The costs for this access are discussed in the costs section above.

EXHIBIT 7—REDUCTION IN TIME BURDEN*—Continued

	2013	2014	2015	2016
Benefit—High ($)	134,604,823	145,290,401	157,800,962	170,487,040

*Estimates may not total due to rounding.

We next examine the savings to aliens who need a replacement Form I–94. If aliens lose the bottom portion of their Form I–94, they may file Form I–102, Application for Replacement/Initial Nonimmigrant Arrival-Departure Document, with USCIS to request a replacement. The form has a Paperwork Reduction Act burden of 25 minutes and a fee of $330. As stated earlier, currently 17,700 Forms I–102 or filed annually and this rule would reduce that amount by 11,929. If this rule is implemented, these travelers would be able to access their electronic Form I–94, which would save these individuals 25 minutes and $330.[28] We calculate the value of this time savings using USCIS's hourly wage estimate for Form I–102 filers of $30.44.[29] Exhibit 8 shows the time and fee cost savings for those who would have otherwise needed to file an I–102 from 2012 to 2016. As shown, in 2013 the value of this time and fee savings would be $4.2 million. CBP seeks comment on these assumptions.

EXHIBIT 8—I–102 COST SAVINGS*

	2013	2014	2015	2016
I–102 Reduction	11,929	11,929	11,929	11,929
Time Burden	25	25	25	25
USCIS hourly wage ($)	30.44	30.44	30.44	30.44
Time Savings ($)	151,299	151,299	151,299	151,299
Fee Savings ($)	3,936,570	3,936,570	3,936,570	3,936,570
Total Savings ($)	4,087,869	4,087,869	4,087,869	4,087,869

*Estimates may not total due to rounding.

In summary, CBP, carriers, and aliens would accrue benefits as a result of this rule. CBP would save contract and printing costs. Carriers would save printing costs. All aliens would save the 8-minute time burden for filling out the paper Form I–94 and certain aliens who lose the Form I–94 would save the $330 fee and 25 minute time burden for filling out the Form I–102. Because we do not expect B–1/B–2 travelers to use the Web site to access their electronic Form I–94, the benefits associated with the Form I–102 accrue only to non-B–1/B–2 travelers. Using the primary estimate for a traveler's value of time, the time burden savings for all travelers is $5.61 per traveler. In addition, those non-B–1/B–2 travelers who no longer need to use a Form I–102 would achieve an additional time and fee savings of $342.68 per traveler. Exhibit 9 summarizes the benefits of this rule to each party. As shown, benefits for this rule for 2013 would range from $110.7 million to $155.6 million. In our primary estimate, the benefits of this rule would be $129.5 million in 2013. CBP seeks comment on these benefits and their underlying assumptions.

EXHIBIT 9—BENEFIT SUMMARY ($)*

	2013	2014	2015	2016
CBP Benefits:				
CBP Contract Savings	15,400,000	15,400,000	15,400,000	15,400,000
CBP Printing Savings	153,360	153,360	153,360	153,360
Total CBP Benefits	15,553,360	15,553,360	15,553,360	15,553,360
Carrier Printing Savings	1,344,450	1,344,450	1,344,450	1,344,450
Traveler Benefits:				
I–94 Time Savings—Low	89,736,549	96,860,267	105,200,642	113,658,027
I–94 Time Savings—Primary	108,560,595	117,178,657	127,268,592	137,500,084
I–94 Time Savings—High	134,604,823	145,290,401	157,800,962	170,487,040
I–102 Time Savings	151,299	215,863	215,863	215,863
I–102 Fee Savings	3,936,570	3,936,570	3,936,570	3,936,570
Total Traveler Benefits—Low	93,824,418	100,948,137	109,288,511	117,745,896
Total Traveler Benefits—Primary	112,648,464	121,266,526	131,356,462	141,587,954
Total Traveler Benefits—High	138,692,692	149,378,271	161,888,832	174,574,910
Grand Total Benefits—Low	110,722,228	117,845,947	126,186,321	134,643,706
Grand Total Benefits—Primary	129,546,274	138,164,336	148,254,272	158,485,764

[28] As discussed in the costs section, we estimate a 4 minute time burden for travelers who need to access their electronic Form I–94. See the cost section for a complete discussion of the costs of accessing the Web site as well as the cost to travel to a location where they can access the Web site, where necessary.

[29] USCIS estimates are based on BLS data for occupational employment statistics. The latest supporting statement for the I–102 is available at: *http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201206–1615–003.* This supporting statement uses an older wage estimate of $30.74. USCIS has since updated the wage rates used in their supporting statements to $30.44 based on more recent BLS statistics. These estimates will be used in the next renewal of the I–102 information collection report.

EXHIBIT 9—BENEFIT SUMMARY ($)*—Continued

	2013	2014	2015	2016
Grand Total Benefits—High	155,590,502	166,276,081	178,786,642	191,472,720

* Estimates may not total due to rounding.

4. Net Benefits

Exhibit 10 compares the costs of this rule to the benefits, both in total and for each party affected. As shown, in 2013, CBP has a net benefit of $15.5 million, carriers have a net benefit of $1.3 million, and travelers have a net benefit of between $59.7 million and $98.7 million. In our primary analysis, the net benefit to travelers is $76.0 million in 2013. Total 2013 net benefits range from $76.5 million to $115.5 million. In our primary analysis, the total net benefits are $92.8 million in 2013.

EXHIBIT 10—NET BENEFITS*

	2012	2013	2014	2015	2016
CBP	−1,321,000	15,461,360	15,461,360	15,461,360	15,461,360
Carriers	0	1,344,450	1,344,450	1,344,450	1,344,450
Travelers—Low	0	59,657,034	64,068,381	69,233,140	74,470,358
Travelers—Primary	0	76,024,542	81,735,221	88,421,223	95,201,026
Travelers—High	0	98,669,998	106,178,383	114,969,119	123,883,185
Grand Total—Low	−1,321,000	76,462,844	80,874,191	86,038,950	91,276,168
Grand Total—Primary	−1,321,000	92,830,352	98,541,031	105,227,033	112,006,836
Grand Total—High	−1,321,000	115,475,808	122,984,193	131,774,929	140,688,995

*Estimates may not total due to rounding.

Exhibits 11 and 12 present the net benefits of this rule, discounted at the 3 and 7 percent discount rates. Exhibit 13 presents annualized net benefits at the 3 and 7 percent discount rates. Annualized net benefits range from $65.6 million to $101.7 million. In the primary analysis, annualized net benefits range from $79.8 million to $81.6 million, depending on the discount rate used.

EXHIBIT 11—NET BENEFITS DISCOUNTED AT A 3 PERCENT RATE

[2012 Dollars]*

	2012	2013	2014	2015	2016
CBP	−1,321,000	15,011,029	14,573,815	14,149,335	13,737,218
Carriers		1,305,291	1,267,273	1,230,362	1,194,526
Travelers—Low		57,919,450	60,390,594	63,358,131	66,165,948
Travelers—Primary		73,810,235	77,043,285	80,917,945	84,584,879
Travelers—High		95,796,115	100,083,309	105,213,030	110,068,605
Grand Total—Low	−1,321,000	74,235,771	76,231,682	78,737,828	81,097,693
Grand Total—Primary	−1,321,000	90,126,555	92,884,373	96,297,642	99,516,623
Grand Total—High	−1,321,000	112,112,435	115,924,397	120,592,727	125,000,350

*Estimates may not total due to rounding.

EXHIBIT 12—NET BENEFITS DISCOUNTED AT A 7 PERCENT RATE

[2012 Dollars]*

	2012	2013	2014	2015	2016
CBP	−1,321,000	14,449,869	13,504,551	12,621,075	11,795,398
Carriers		1,256,495	1,174,295	1,097,472	1,025,674
Travelers—Low		55,754,237	55,959,805	56,514,865	56,813,079
Travelers—Primary		71,050,974	71,390,707	72,178,057	72,628,407
Travelers—High		92,214,952	92,740,311	93,849,048	94,509,889
Grand Total—Low	−1,321,000	71,460,602	70,638,651	70,233,412	69,634,151
Grand Total—Primary	−1,321,000	86,757,338	86,069,553	85,896,604	85,449,479
Grand Total—High	−1,321,000	107,921,316	107,419,157	107,567,595	107,330,961

*Estimates may not total due to rounding.

EXHIBIT 13—ANNUALIZED NET BENEFITS DISCOUNTED AT 3 PERCENT AND 7 PERCENT*

	3 Percent	7 Percent
CBP	11,903,588	11,636,069
Carriers	1,059,434	1,038,002
Travelers—Low	52,539,528	51,294,997

EXHIBIT 13—ANNUALIZED NET BENEFITS DISCOUNTED AT 3 PERCENT AND 7 PERCENT*—Continued

	3 Percent	7 Percent
Travelers—Primary	67,065,877	65,473,972
Travelers—High	87,163,978	85,091,457
Grand Total—Low	65,502,550	63,969,068
Grand Total—Primary	80,028,899	78,148,043
Grand Total—High	100,126,999	97,765,529

*Estimates may not total due to rounding.

While this is a large net benefit to travelers as a whole, it is important to note that the net benefits do not accrue uniformly across all travelers. We next examine the effect of this rule on each type of traveler. Exhibit 14 summarizes the costs and benefits per traveler for each class of alien discussed in this analysis. B–1/B–2 travelers will no longer need to fill out the paper Form I–94, saving them 8 minutes. As discussed earlier, we assume that no B–1/B2 travelers will need to access their electronic Form I–94 via the Web site. Because we assume they do not use the Form I–94, B–1/B–2 travelers also do not file Form I–102 to replace their lost Form I–94. Therefore they will not accrue benefits from no longer needing to file Forms I–102. The net effect of this rule to each B–1/B–2 traveler is a benefit of $5.61 per traveler.

Travelers who are students and diplomats would no longer need to fill out a paper Form I–94. They would need to access the Web site and print their Form I–94, but would not need to travel to a location with internet access. The net effect of this rule to travelers who are students and diplomats is a benefit of $2.56 per traveler. In addition, those students and diplomats who would otherwise need to file a Form I–102 and pay the $330 fee to obtain a replacement Form I–94 would receive an additional benefit of $342.68 as a result of this rule.

Temporary workers and aliens in the ''Other/Unknown'' category would no longer need to fill out a paper Form I–94. They would need to access the Web site and print their Form I–94, and some would need to travel 20 miles and 30 minutes round-trip to reach a location with internet access. The net effect of this rule to temporary workers and aliens in the ''Other/Unknown'' category is a cost of $18.04 per traveler. We reiterate that those with obstacles to accessing their electronic I–94s may request a paper I–94 at the airport or seaport upon arrival in the United States. In addition, those temporary workers and aliens in the ''Other/Unknown'' category who would otherwise need to file a Form I–102 and pay the $330 fee to obtain a replacement Form I–94 would receive an additional benefit of $342.68 as a result of this rule.[30]

EXHIBIT 14—ANNUAL EFFECT OF RULE BY CLASS OF ALIEN ($) *

	Percentage of total number of aliens	8 minute time cost savings	Cost of time to access & cost to print electronic form I–94	Travel costs	Net impact **
Tourists and Business Travelers (B–1/B–2)	73.9	5.61	0	0	5.61
Students	9.9	5.61	−3.06	0	2.56
Temporary workers	9.9	5.61	−3.06	−20.60	−18.04
Other/Unknown	4.1	5.61	−3.06	−20.60	−18.04
Diplomats	2.2	5.61	−3.06	0	2.56

*Estimates may not total due to rounding.

** In addition to this net impact, a small number of non-B–1/B–2 travelers will experience savings resulting from no longer needing to file a Form I–102. The primary estimate of Form I–102 cost savings to non-B–1/B–2 travelers is $342.81 per traveler. We do not include the Form I–102 cost savings in the net impact column of Exhibit 14 because few non-B–1/B–2 travelers will benefit from this compared to the overall population of non-B–1/B–2 travelers impacted by the rule. Based on data from USCIS, we estimate that 16,853 Form I–102s per year will no longer need to be filed as a result of this rule. This is less than one percent of the annual population of non-B–1/B–2 travelers affected by the rule (16,853 Form I–102s ÷ 5,047,681 non-B–1/B–2 travelers in 2013 < 1%).

Annualized costs and benefits to U.S. entities are presented in the following accounting statement, as required by OMB Circular A–4.

ACCOUNTING STATEMENT: CLASSIFICATION OF EXPENDITURES, 2012–2016

[$2012]

	3% Discount rate	7% Discount rate
U.S. Costs:		
Annualized monetized costs	$0.352 million	$0.372 million.
Annualized quantified, but non-monetized costs	None	None.
Qualitative (non-quantified) costs	None	None.
U.S. Benefits:		
Annualized monetized benefits	$13.7 million	$14.0 million.

[30] CBP intends to have a considerable outreach effort in place by the time that this rule is effective including outreach to airlines and travelers to communicate that requesting a paper Form I–94 continues to be an option.

ACCOUNTING STATEMENT: CLASSIFICATION OF EXPENDITURES, 2012–2016—Continued

[$2012]

	3% Discount rate	7% Discount rate
Annualized quantified, but non-monetized benefits	None	None.
Qualitative (non-quantified) benefits	Reduced primary inspection processing times.	Reduced primary inspection processing times.

We estimate annualized costs to U.S. entities as a result of this rule to be $0.352 million to $0.372 million. These are CBP's costs for automating the electronic Form I–94 and developing the Web site travelers will use to access their electronic Form I–94. Monetized benefits of this rule of $13.7 million to $14.0 million to U.S. entities (CBP and carriers) represent reduced Form I–94 printing and storage costs and reduced data entry contract costs. Non-quantified benefits of this rule include the reduced processing time that could result as a result of the automation of the Form I–94. This rule also imposes monetized costs and benefits for travelers. However, because these are attributable solely to foreign individuals, we do not include them in the accounting statement.

5. Regulatory Alternatives

We consider two alternatives to this rule: eliminating the paper Form I–94 in the air and sea environments entirely and providing the paper Form I–94 to all travelers who are not B–1/B–2 travelers. If CBP were to eliminate the paper Form I–94 entirely in the air and sea environment, there are certain classes of vulnerable aliens who would be harmed. Under the rule, refugees, applicants for asylum, and parolees will be provided a paper Form I–94. These aliens have an immediate need for the Form I–94 and cannot wait to access their electronic Form I–94 from the Web site. These aliens represent a very small portion of overall international travel and providing them with a paper Form I–94 and entering the information into CBP data systems is not a significant cost to CBP. In addition, under this rule, CBP will continue to provide a paper Form I–94 to those travelers who request it. CBP is providing this flexibility as a way to minimize the effect on those who face obstacles to accessing their electronic Form I–94. As CBP does not expect many aliens to request a paper Form I–94, the cost to CBP for printing and data entry is minimal. Eliminating the paper Form I–94 option for refugees, applicants for asylum, parolees, and those travelers who request one would not result in a significant cost savings to CBP and would harm travelers who have an immediate need for an electronic Form I–94 or who face obstacles to accessing their electronic Form I–94.

A second alternative to the rule is to provide a paper Form I–94 to any travelers who are not B–1/B–2 travelers. Under this alternative, travelers would receive and complete the paper Form I–94 during their inspection when they arrive in the United States. The electronic Form I–94 would still be automatically created during the inspection, but the CBP Officer would need to verify that the information appearing on the form matches the information in CBP's systems. In addition, CBP would need to write the Form I–94 number on each paper Form I–94 so that their paper form matches the electronic record. As noted earlier, 25.1 percent of aliens are non-B–1/B–2 travelers. Filling out and processing this many paper Forms I–94 at airports and seaports would increase processing times considerably. At the same time, it would only provide a small savings to the individual traveler. As noted in the Net Benefits section, the net cost of this rule to temporary workers and to those in the ''Other/Unknown'' category of aliens is only $18.04 per traveler and the rule has a net benefit to those arriving as students or diplomats.

The Regulatory Flexibility Act

This section examines the impact of the rule on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

This rule primarily regulates individuals and individuals are not considered small entities. In addition, the individual travelers may obtain a paper Form I–94 upon request, which would eliminate the impacts of this rule for those travelers. Employers who have internet access may choose to allow their employees to use their internet connection to access the employee's electronic Form I–94, but they are not required to do so and are therefore not directly regulated by this rule. To the extent an employer chooses to assist an employee with accessing the internet and printing an I–94, this impact would not rise to being an economically significant impact under the RFA. This rule also regulates air and sea carriers by eliminating the need for them to provide the paper Form I–94 to their passengers. This rule would impact all small carriers that transport passengers to the United States. We therefore conclude that this rule will have an impact on a substantial number of small entities. As stated in the economic impact analysis above, we estimate that carriers spend $1.3 million a year printing and storing forms for their passengers, based on 2011 passenger volumes. In 2011, 16,586,753 Forms I–94 provided by carriers were filed at airports and seaports. Dividing these figures, we estimate that carriers spent 8 cents per form in printing and storage costs. Under this rule, carriers would no longer need to print and store the Forms I–94, thus eliminating these costs. According to a 2008 study by the Department of Commerce's Office of Travel and Tourism Industries,[31] the average ticket price for an international traveler traveling to the United States is $1,484. The cost to the carrier of printing a Form I–94 is less than one hundredth of one percent of the revenue a carrier receives from the average passenger. We therefore do not believe that this rule will have a significant economic impact on small entities. We also note that any impact to small carriers would be purely beneficial. CBP certifies that this rule will not have a significant economic impact on a substantial number of small entities. CBP welcomes comments on this conclusion.

Administrative Procedure Act

The Administrative Procedure Act (APA) generally requires agencies to publish a notice of proposed rulemaking in the **Federal Register** (5 U.S.C. 553(b))

[31] U.S. Office of Travel and Tourism Industries. 2008. ''Overseas Travelers to the United States.'' Table 26.

and provide interested persons the opportunity to submit comments (5 U.S.C. 553(c)). However, the APA provides an exception to this prior notice and comment requirement for ''rules of agency organization, procedure, or practice'' 5 U.S.C. 553(b)(A).

This interim final rule is a procedural rule promulgated for ''agency housekeeping'' and efficiency purposes. CBP believes that will not affect the substantive rights or interests of the public.

Once effective, the rule will change ''the manner'' in which arriving aliens present information to CBP, but will not ''alter the rights or interests'' of those aliens as they seek admission to the United States. Such arriving aliens will no longer be required to complete and submit the paper Form I–94. Instead, the information previously collected by the paper I–94 will now be automatically populated into a new electronic format, which will be printable from CBP's Web site: *www.cbp.gov/i94.*

The rule neither affects the substantive criteria by which CBP officers inspect aliens upon arrival nor the nature of the information at CBP's disposal.

Privacy

CBP will ensure that all Privacy Act requirements and policies are adhered to in the implementation of this rule, and will be issuing a Privacy Impact Assessment (PIA), which will fully outline how CBP will ensure compliance with Privacy Act protections. The PIA will examine the privacy impact of the Form I–94 automation process as it relates to DHS's Fair Information Practice Principles (FIPPs). The FIPPs account for the nature and purpose of the information being collected in relation to DHS's mission to preserve, protect, and secure. The PIA will address such issues as the security, integrity, and sharing of data, use limitation, and transparency. The PIA will be made available at: *http://www.dhs.gov/privacy-documents-us-customs-and-border-protection.*

Paperwork Reduction Act

The collection of information regarding the CBP Form I–94 (Arrival/Departure Record) was previously reviewed and approved by OMB in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under OMB Control Number 1651–0111. This OMB Control Number also includes the Electronic System for Travel Authorization (ESTA), ESTA fee, and Form I–94W, all of which are unaffected by this rule. In addition, information for the electronic Form I–94 will be comprised of information already collected for APIS under approval 1651–0088. An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

The automation of the paper Form I–94 for commercial aircraft and vessel passengers in accordance with this Interim Final Rule would result in an estimated reduction of 9.6 million Forms I–94 completed by paper, and an estimated reduction of 1,276,800 burden hours. The remaining estimated burden associated with the Form I–94, which would be for aliens arriving at the land border, is as follows:

Estimated Number of Respondents: 4,400,000.

Estimated Number of Total Annual Responses: 4,400,000.

Estimated Time per Response: 8 minutes.

Estimated Total Annual Burden Hours: 585,200.

CBP will make the electronic Form I–94 available to aliens on a secure Web site. Passengers may log into the Web site using 7 pieces of basic identifying information that is either known to the traveler (their first name, last name and date of birth) or readily available on their passport (passport number, country of issuance, date of entry, and class of admission). This information will be used only to grant the passenger access to the Web site. CBP estimates that it will take the traveler 4 minutes to log into the Web site using identifying information and print the electronic form. Because so many parties at various levels of government and outside of the government use the Form I–94, CBP cannot estimate how many aliens who are not B–1/B–2 travelers will access the Web site. Because we do not know how many people need a physical copy of their Form I–94 or how many face obstacles to accessing their electronic I–94, for the purposes of this analysis, we assume that every traveler, other than B–1/B–2 travelers, who currently receives a paper Form I–94 will log into the Web site to print off their electronic Form I–94. In 2013, we estimate this to be 5,047,681 travelers. We request comments on the number of travelers that will access the Web site and will amend this number accordingly in the final rule. The estimated burden associated with the Web site, is as follows:

Estimated Number of Respondents: 5,047,681.

Estimated Number of Total Annual Responses: 5,047,681.

Estimated Time per Response: 4 minutes.

Estimated Total Annual Burden Hours: 336,512

The automation of the paper Form I–94 for commercial aircraft and vessel passengers in accordance with this Interim Final Rule would result in an estimated reduction of 10,918 million Forms I–102 filed, and an estimated reduction of 4,541.89 burden hours. The collection of information regarding the Form I–102 was previously reviewed and approved by OMB in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under OMB Control Number 1615–0079. The remaining estimated burden associated with the Form I–102, which would be for aliens arriving at the land border, is as follows:

Estimated Number of Respondents: 6,782.[32]

Estimated Number of Total Annual Responses: 6,782.

Estimated Time per Response: 25 minutes.

Estimated Total Annual Burden Hours: 2,821.31.

The Exhibit 15 summarizes the difference in the burden for the current process and the future process. As OMB Control Number 1651–0111 includes ESTA and I–94W, we include those burden hours for informational purposes. We note that these burden hours are unaffected by this rule.

EXHIBIT 15 PRA—BURDEN EFFECTS OF THE RULE

	Collection	Respondents	Burden hours
Pre-IFR	I–94	14,000,000	1,862,000
	Website	0	0
	I–102	17,700	7,363

[32] As discussed earlier, CBP uses a slightly different figure in its regulatory analysis because the analysis is based on a calendar year basis which USCIS's estimates are on a fiscal year basis.

EXHIBIT 15 PRA—BURDEN EFFECTS OF THE RULE—Continued

	Collection	Respondents	Burden hours
	ESTA	19,140,000	4,785,000
	I–94W	100,000	333,147
IFR	I–94	4,400,000	586,667
	Website	5,047,681	336,512
	I–102	6,782	2,821
	ESTA	19,140,000	4,785,000
	I–94W	100,000	13,333
Difference	I–94	−9,600,000	−1,275,333
	Website	5,047,681	336,512
	I–102	−10,918	−4,542
	ESTA	0	0
	I–94W	0	0

Comments concerning the accuracy of this cost estimate and suggestions for reducing this burden should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of Homeland Security, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, Attention: Border Security Regulations Branch, 90 K Street NE., 10th Floor, Washington, DC 20229.

CBP has included a copy of the current paper Form I–94 on the docket for this rulemaking in the supporting documents section. CBP seeks comments on whether the instructions included on the form are sufficient or whether they should be revised for clarity in light of the automation. Comments on the instructions should be submitted to CBP as described in the **ADDRESSES** portion of this rule above.

List of Subjects

8 CFR Part 1

Administrative practice and procedure, Immigration.

8 CFR Part 264

Aliens, Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons discussed in the preamble and under the authority of 8 U.S.C. 1103, CBP amends 8 CFR chapter 1 as set forth below.

PART 1—DEFINTIONS

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

Authority: 8 U.S.C. 1101; 8 U.S.C. 1103; 5 U.S.C. 301; Pub. L. 107–296, 116 Stat. 2135; 6 U.S.C. 1 *et seq.*

■ 2. Add § 1.4 to part 1 to read as follows:

§ 1.4 Definition of Form I–94

The term *Form I–94,* as used in this chapter I, includes the collection of arrival/departure and admission or parole information by DHS, whether in paper or electronic format, which is made available to the person about whom the information has been collected, as may be prescribed by DHS. The following terms, when used in the context of the *Form I–94,* are clarified as to their meaning to accommodate the collection of such information in an electronic format.

(a) The terms ''annotate,'' ''note,'' ''indicate on,'' ''stamp,'' and ''endorse,'' unless used in part 231 of this chapter, include, but are not limited, to DHS amending, including or completing information in its electronic record of admission, or arrival/departure. For purposes of part 231, the term ''endorse'' includes but is not limited to the submission of electronic departure data to CBP.

(b) The terms ''completed,'' ''completely executed'' and ''completed and signed'' include, but are not limited to, DHS completing its collection of information into its electronic record of admission, or arrival/departure.

(c) The terms ''issuance'' and ''given'' include, but are not limited to, the creation of an electronic record of admission, or arrival/departure by DHS following an inspection performed by an immigration officer.

(d) The term ''original I–94'' includes, but is not limited to, any printout or electronic transmission of information from DHS systems containing the electronic record of admission or arrival/departure.

(e) The terms ''present,'' ''presentation,'' or ''submission'' of a Form I–94, unless they are used in § 231.1 or § 231.2 of this chapter, include, but are not limited to, providing a printout of information from DHS systems containing an electronic record of admission or arrival/departure. For purposes of § 231.1 of this chapter, the terms ''present'' or ''submission'' of the Form I–94 includes ensuring that each passenger presents him/herself to a CBP Officer for inspection at a U.S. port-of-entry. For the purposes of § 231.2 of this chapter, the terms ''present,'' ''submit,'' or ''submission'' of the Form I–94 includes ensuring that each passenger is available for inspection by a CBP Officer upon request.

(f) The term ''possession'' with respect to a Form I–94 includes, but is not limited to, obtaining a copy or printout of the record of an electronic evidence of admission or arrival/departure from the appropriate CBP systems.

(g) The terms ''surrendering,'' ''turning in a Form I–94,'' and ''departure I–94'' includes, but is not limited to, complying with any departure controls under 8 CFR part 215 that may be prescribed by CBP in addition to the submission of electronic departure data to CBP by a carrier.

* * * * *

PART 264—REGISTRATION AND FINGERPRINTING OF ALIENS IN THE UNITED STATES

■ 3. The general authority for part 264 continues to read as follows:

Authority: 8 U.S.C. 1103, 1201, 1303—1305; 8 CFR part 2.

* * * * *

§§ 210.4, 212.1, 212.4, 212.6, 214.1, 214.2, 214.6, 214.7, 214.14, 215.8, 231.1, 231.2, 235.1, 245.15, 245.21, 245.23, 245.24, 245a.1, 245a.2, 245a.4, 245a.15, 247.12, 253.1, 274a.2, and 286.9 [Amended]

■ 4. In the following locations, add ''(see § 1.4)'' after the first mention of the term ''I–94'':

■ a. § 210.4(d)(3);
■ b. § 212.1(q)(1)(vi);
■ c. § 212.4(g);
■ d. § 212.6(b)(2)(iii);
■ e. § 214.1(b)(1)(iv);
■ f. § 214.2(b)(2);

■ g. § 214.6(g)(1);
■ h. § 214.7(c)(2)(i);
■ i. § 214.14(c)(5)(i)(A);
■ j. § 215.8(a)(1);
■ k. § 231.1(b)(1);
■ l. § 231.2(b)(1);
■ m. § 235.1(f)(1)(ii);
■ n. § 245.15(h)(4);
■ o. § 245.21(g)(3);
■ p. § 245.23(e)(1)(vi);
■ q. § 245.24(d)(6);
■ r. § 245a.1(d)(2);
■ s. § 245a.2(b)(8);
■ t. § 245a.4(b)(2)(i)(F);
■ u. § 245a.15(b)(2)(i);
■ v. § 247.12(a);
■ w. § 253.1(a);
■ x. § 274a.2(b)(1)(v)(A)(5); and
■ y. § 286.9(b)(1).

■ 5. In § 264.1, add a note to the end of paragraph (b) to read as follows:

§ 264.1 Registration and fingerprinting.

* * * * *

(b) * * *

Note to paragraph (b): In addition to the forms noted in this paragraph (b), a valid, unexpired nonimmigrant DHS admission or parole stamp in a foreign passport constitutes evidence of registration.

Janet Napolitano,

Secretary.

[FR Doc. 2013–06974 Filed 3–26–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 505

Army Privacy Act Program

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Army is amending its rule on notification of the Army Litigation Division when complaints citing the Privacy Act are filed in order to correct the mailing address in § 505.12. The address for notifying the Army Litigation Division of cases citing the Privacy Act and filed in a U.S. District Court has changed.

DATES: *Effective Date:* This rule is effective March 27, 2013.

FOR FURTHER INFORMATION CONTACT: MAJ Lisa R. Bloom, 703–693–1009, email: *lisa.bloom@us.army.mil.*

SUPPLEMENTARY INFORMATION:

A. Background

In the August 10, 2006, issue of the **Federal Register** (71 FR 46052), the Department of the Army issued a final rule. This final rule corrects the mailing address for the Army Litigation Division. The Army Litigation Division moved to Fort Belvoir in September 2011.

B. Regulatory Flexibility Act

The Department of the Army has determined that the Regulatory Flexibility Act does not apply because the rule change does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

C. Unfunded Mandates Reform Act

The Department of the Army has determined that the Unfunded Mandates Reform Act does not apply because the rule change does not include a mandate that may result in estimated costs to State, local or tribal governments in the aggregate, or the private sector, of $100 million or more.

D. National Environmental Policy Act

The Department of the Army has determined that the National Environmental Policy Act does not apply because the rule change does not have an adverse impact on the environment.

E. Paperwork Reduction Act

The Department of the Army has determined that the Paperwork Reduction Act does not apply because the rule change does not involve collection of information from the public.

F. Executive Order 12630 (Government Actions and Interference With Constitutionally Protected Property Rights)

The Department of the Army has determined that Executive Order 12630 does not apply because the rule change does not impair private property rights.

G. Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)

The Department of the Army has determined that according to the criteria defined in Executive Order 12866 and Executive Order 13563 this rule change is not a significant regulatory action. As such, the rule is not subject to Office of Management and Budget review under section 6(a)(3) of the Executive Order.

H. Executive Order 13045 (Protection of Children From Environmental Health Risk and Safety Risks)

The Department of the Army has determined that according to the criteria defined in Executive Order 13045 that Executive Order does not apply.

I. Executive Order 13132 (Federalism)

The Department of the Army has determined that according to the criteria defined in Executive Order 13132 that Executive Order does not apply because the rule change will not have a substantial 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.

Kevin K. Robitaille,

COL, JA, Chief, U.S. Army Litigation Division.

List of Subjects in 32 CFR Part 505

Privacy, Enforcement actions.

For reasons stated in the preamble 32 CFR part 505 is amended as follows:

PART 505—ARMY PRIVACY ACT PROGRAM

■ 1. The authority citation for part 505 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

■ 2. Revise paragraph (b) (1) of § 505.12 to read as follows:

§ 505.12 Privacy Act enforcement actions.

* * * * *

(b) * * *

(1) When a complaint citing the Privacy Act is filed in a U.S. District Court against the Department of the Army, an Army Component, a DA Official, or any Army employee, the responsible system manager will promptly notify the Army Litigation Division, U.S. Army Legal Services Agency (USALSA), 9275 Gunston Road, Fort Belvoir, VA 22060.

* * * * *

[FR Doc. 2013–06968 Filed 3–26–13; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 518

The Freedom of Information Act

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Army is amending its rule on notification of the Army Litigation Division when a request is made for a record related to pending litigation involving the United States in order to correct the mailing address in § 518.15 and § 518.18. The address for notifying the U.S. Army Litigation Division of record requests

related to litigation involving the United States has changed.

DATES: *Effective Date:* This rule is effective March 27, 2013.

FOR FURTHER INFORMATION CONTACT: MAJ Lisa R. Bloom, 703–693–1009, email: *lisa.bloom@us.army.mil*.

SUPPLEMENTARY INFORMATION:

A. Background

In the February 26, 2006, issue of the **Federal Register** (71 FR 9222), the Department of the Army issued a final rule. This final rule corrects the mailing address for the Army Litigation Division. The Army Litigation Division moved to Fort Belvoir in September 2011.

B. Regulatory Flexibility Act

The Department of the Army has determined that the Regulatory Flexibility Act does not apply because the rule change does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

C. Unfunded Mandates Reform Act

The Department of the Army has determined that the Unfunded Mandates Reform Act does not apply because the rule change does not include a mandate that may result in estimated costs to State, local or tribal governments in the aggregate, or the private sector, of $100 million or more.

D. National Environmental Policy Act

The Department of the Army has determined that the National Environmental Policy Act does not apply because the rule change does not have an adverse impact on the environment.

E. Paperwork Reduction Act

The Department of the Army has determined that the Paperwork Reduction Act does not apply because the rule change does not involve collection of information from the public.

F. Executive Order 12630 (Government Actions and Interference With Constitutionally Protected Property Rights)

The Department of the Army has determined that Executive Order 12630 does not apply because the rule change does not impair private property rights.

G. Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)

The Department of the Army has determined that according to the criteria defined in Executive Order 12866 and Executive Order 13563 this rule change is not a significant regulatory action. As such, the rule is not subject to Office of Management and Budget review under section 6(a)(3) of the Executive Order.

H. Executive Order 13045 (Protection of Children From Environmental Health Risk and Safety Risks)

The Department of the Army has determined that according to the criteria defined in Executive Order 13045 that Executive Order does not apply.

I. Executive Order 13132 (Federalism)

The Department of the Army has determined that according to the criteria defined in Executive Order 13132 that Executive Order does not apply because the rule change will not have a substantial 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.

Kevin K. Robitaille,

COL, JA, Chief, U.S. Army Litigation Division.

List of Subjects in 32 CFR Part 518

Freedom of information.

For reasons stated in the preamble 32 CFR part 518 is amended as follows:

PART 518—THE FREEDOM OF INFORMATION ACT

■ 1. The authority citation for part 518 continues to read as follows:

Authority: 5 U.S.C. 551, 552, 552a, 5101–5108, 5110–5113, 5115, 5332–5334, 5341–42, 5504–5509, 7154; 10 U.S.C. 130, 1102, 2320–2321, 2328; 18 U.S.C. 798, 3500; 31 U.S.C. 3710; 35 U.S.C. 181–188; 42 U.S.C. 2162; 44 U.S.C. 33; and Executive Order 12600.

■ 2. Revise paragraphs (b)(5)(i) and (iii) of § 518.15 to read as follows:

§ 518.15 General Provisions.

* * * * *

(b) * * *

(5) * * *

(i) *Litigation.* Each request for a record related to pending litigation involving the United States will be referred to the staff judge advocate or legal officer of the command. He or she will promptly inform the Litigation Division, U.S. Army Legal Services Agency (USALSA), of the substance of the request and the content of the record requested. (Mailing address: Army Litigation Division, U.S. Army Legal Services Agency (USALSA), 9275 Gunston Road, Fort Belvoir, VA 22060. If information is released for use in litigation involving the United States, the Chief, Army Litigation Division (AR 27–40, para 1–4d) must be advised of the release. He or she will note the release in such investigative reports. Information or records normally exempted from release (i.e., personnel and medical records) may be releasable to the judge or court concerned, for use in litigation to which the United States is not a party. Refer such requests to the local staff judge advocate or legal officer, who will coordinate it with the Litigation Center, USALSA.

* * * * *

(iii) *Contract disputes.* Each request for a record that relates to a potential contract dispute or a dispute that has not reached final decision by the contracting officer will be treated as a request for procurement records and not as litigation. However, the officials will consider the effect of release on the potential dispute. Those officials may consult with the USALSA, Contract and Fiscal Law Division. (Mailing address: Contract and Fiscal Law Division, U.S. Army Legal Services Agency (USALSA), 9275 Gunston Road, Fort Belvoir, VA 22060. If the request is for a record that relates to a pending contract appeal to the Armed Services Board of Contract Appeals, or to a final decision that is still subject to appeal (i.e., 90 days have not lapsed after receipt of the final decision by the contractor) then the request will be: Treated as involving a contract dispute; and referred to the USALSA, Contract and Fiscal Law Division.

* * * * *

■ 3. Revise paragraph (f)(2) of § 518.18 to read as follows:

§ 518.18 Judicial actions.

* * * * *

(f) * * *

(2) *Responsibility for FOIA litigation.* For the Army, under the general oversight of the OGC, FOIA litigation is the responsibility of the General Litigation Branch, Army Litigation Division. If you are notified of a FOIA lawsuit involving the Army, contact the General Litigation Branch immediately at: General Litigation Branch, Army Litigation Division, U.S. Army Legal Services Agency (USALSA), 9275 Gunston Road, Fort Belvoir, VA 22060. The General Litigation Branch will provide guidance on gathering information and assembling a litigation

report necessary to respond to FOIA litigation.

* * * * *

[FR Doc. 2013–06967 Filed 3–26–13; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2012–0150]

RIN 1625–AA08

Special Local Regulations; Stuart Sailfish Regatta, Indian River; Stuart, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation on the Indian River located northeast of the Ernest F. Lyons Bridge and south of Joes Cove, in Stuart, Florida during the Stuart Sailfish Regatta, a series of high-speed boat races. The Stuart Sailfish Regatta will take place from Friday, April 19, 2013, until Sunday, April 21, 2013. Approximately 40–80 high-speed power boats will be participating in the event and it is anticipated that at least 100 spectator vessels will be. This special local regulation is necessary for the safety of race participants, participant vessels, spectators, and the general public during the event. The special local regulation establishes the following three areas: A race area, where all persons and vessels, except those persons and vessels participating in the high-speed boat races, are prohibited from entering, transiting through, anchoring in, or remaining within; a buffer zone around the race area, where all persons and vessels, except those persons and vessels enforcing the buffer zone, or authorized participants or vessels transiting to the race area, are prohibited from entering, transiting through, anchoring in, or remaining within; and a spectator area.

DATES: This rule is effective from April 19, 2013, until April 21, 2013. This rule is enforced from 9 a.m. until 5 p.m. daily from April 19, 2013, until April 21, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2012–0150. 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, 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

On January 9, 2013, the USCG published a Notice of Proposed Rulemaking (NPRM) entitled, ''Special Local Regulations; Stuart Sailfish Regatta, Indian River; Stuart, FL'' in the **Federal Register** (78 FR 1792). We received no comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

From Friday, April 19, 2013, until Sunday, April 21, 2013, Stuart Sailfish Regatta, Inc. will be hosting the Stuart Sailfish Regatta, a series of high-speed boat races. The races will be held on the Indian River located northeast of Ernest F. Lyons Bridge and south of Joes Cove, in Stuart, Florida. Approximately 40–80 high-speed power boats will be participating in the event. It is anticipated that at least 100 spectator vessels will be present during the race.

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 insure safety of life on navigable waters of the United States during the Stuart Sailfish Regatta.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard did not receive any comments to the proposed rule. Two changes were made to the regulatory text. First, the published NPRM included an overlap between the buffer zone and the spectator area. This has been corrected so that these two areas are in fact defined and separate. Second, the paragraph pertaining to the spectator area was amended to further explain the regulation for that area. Entrance into the spectator area will be regulated and all persons and vessels are prohibited from entering the spectator area unless and until given permission by the Captain of the Port Miami or designated representative via radio on channel 16.

This temporary final rule establishes a special local regulation that will encompass certain waters of the Indian River located northeast of Ernest F. Lyons Bridge and south of Joes Cove, in Stuart, Florida. The special local regulation will be enforced daily from 9 a.m. until 5 p.m. from April 19, 2013 until April 21, 2013. The special local regulation consists of the following three areas: (1) A race area, where all persons and vessels, except those persons and vessels participating in the high-speed boat races, are prohibited from entering, transiting through, anchoring in, or remaining within; (2) a buffer zone around the race area, where all persons and vessels, except those persons and vessels enforcing the buffer zone, or authorized participants or vessels transiting to the race area, are prohibited from entering, transiting through, anchoring in, or remaining within; and (3) a spectator area.

Persons and vessels may request authorization by contacting the Captain of the Port Miami by telephone at (305) 535–4472, or a designated representative via VHF radio on channel 16, to enter, transit through, anchor in, or remain within the race area or the buffer zone. If authorization 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 regulated areas 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 regulations will be enforced for a maximum of 8 hours a day for three days; (2) non-participant persons and vessels may enter, transit through, anchor in, or remain within the regulated areas during their respective enforcement periods if authorized by the Captain of the Port Miami or a designated representative; (3) non-participant persons and vessels not able to enter, transit through, anchor in, or remain within the regulated areas without authorization from the Captain of the Port Miami or a designated representative may operate in the surrounding areas during the respective enforcement periods; and (4) the Coast Guard will provide advance notification of the special local regulations 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 received no comments from the Small Business Administration on this rule.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule 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 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). Due to potential environmental issues, we conducted an environmental assessment last year for both the issuance of the marine event permit and the establishment of this special local regulation. The same environmental

assessment is being used for this year's event as it is substantially similar in all aspects and therefore the potential effects and alternatives would remain unchanged. Additionally, a supplemental environmental assessment was conducted to address changes to the annual reoccurring event. After completing the supplemental environmental assessment for the issuance of the marine event permit, and the establishment of these special local regulations, we have determined these actions will not significantly affect the human environment. This rule involves the creation of a special local regulation in conjunction with a regatta or marine parade, and is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. The supplemental environmental assessment, environmental assessment, and finding of no significant impact (FONSI) 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.

■ 2. Add § 100.35T07–0150 to read as follows:

§ 100.35T07–0150 Special Local Regulation; Stuart Sailfish Regatta, Indian River, Stuart, FL.

(a) *Regulated Areas.* The following regulated areas are established as a special local regulation. All coordinates are North American Datum 1983.

(1) *Race Area.* All waters of Indian River located northeast of Ernest Lyons Bridge and south of Joes Cove that are encompassed within an imaginary line connecting the following points: Starting at Point 1 in position 27°12′46″ N, 80°11′10″ W; thence southeast to Point 2 in position 27°12′41″ N, 80°11′09″ W; thence southwest to Point 3 in position 27°12′37″ N, 80°11′11″ W; thence southwest to Point 4 in position 27°12′33″ N, 80°11′18″ W; thence southwest to Point 5 in position 27°12′31″ N, 80°11′23″ W; thence west to Point 6 in position 27°12′31″ N, 80°11′27″ W; thence northwest to Point 7 in position 27°12′33″ N, 80°11′31″ W; thence northwest to Point 8 in position 27°12′38″ N, 80°11′32″ W; thence northeast to Point 9 in position 27°12′42″ N, 80°11′30″ W; thence northeast to Point 10 in position 27°12′46″ N, 80°11′26″ W; thence northeast to Point 11 in position 27°12′48″ N, 80°11′21″ W; thence east to Point 12 in position 27°12′48″ N, 80°11′15″ W; thence southeast back to origin. All persons and vessels, except those persons and vessels participating in the high-speed boat races, are prohibited from entering, transiting through, anchoring in, or remaining within the race area.

(2) *Buffer Zone.* All waters of Indian River located northeast of Ernest Lyons Bridge and south of Joes Cove that are encompassed within an imaginary line connecting the following points, with the exception of the spectator area: Starting at Point 1 in position 27°12′40″ N, 80°11′38″ W; thence southeast to Point 2 in position 27°12′22″ N, 80°11′28″ W; thence northeast to Point 3 in position 27°12′35″ N, 80°11′00″ W; thence northwest to Point 4 in position 27°12′47″ N, 80°11′04″ W; thence northeast to Point 5 in position 27°13′05″ N, 80°11′01″ W; thence southwest to Point 6 in position 27°12′54″ N, 80°11′26″ W; thence southeast to Point 7 in position 27°11′52″ N, 80°11′25″ W; thence southwest back to origin. All persons and vessels, except those persons and vessels enforcing the buffer zone, or authorized participants or vessels transiting to or from the race area, are prohibited from entering, transiting through, anchoring in, or remaining within the buffer zone.

(3) *Spectator Area.* All waters of Indian River located northeast of the Ernest Lyons Bridge and south of Joes Cove that are encompassed within an imaginary line connecting the following points: Starting at Point 1 in position 27°12′47″ N, 80°11′43″ W; thence southeast to Point 2 in position 27°12′40″ N, 80°11′38″ W; thence northeast to Point 3 in position 27°11′52″ N, 80°11′25″ W; thence northwest to Point 4 in position 27°12′54″ N, 80°11′26″ W; thence southwest back to origin. Entering, transiting through, or remaining within the spectator area, unless given permission by the Captain of the Port Miami or a designated representative via VHF radio on channel 16.

(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:

(i) Entering, transiting through, anchoring in, or remaining within the race area, unless participating in the race.

(ii) Entering, transiting through, anchoring in, or remaining within the buffer zone, unless enforcing the buffer zone or a race participant transiting to or from the race area.

(iii) Entering, transiting through, or remaining within the spectator area, unless given permission by the Captain of the Port Miami or a designated representative via VHF radio on channel 16.

(iv) Traveling in excess of wake speed in the spectator area.

(2) Persons and vessels may request authorization to enter, transit through, anchor in, or remain within any of the three regulated areas by contacting the Captain of the Port Miami by telephone at 305–535–4472, or a designated representative via VHF radio on channel 16. If authorization 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 areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement Date.* This rule will be enforced from 9 a.m. until 5 p.m. daily from April 19, 2013 through April 21, 2013.

Dated: March 7, 2013.

C.P. Scraba,

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

[FR Doc. 2013–07001 Filed 3–26–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0153]

Drawbridge Operation Regulations; Willamette River, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Steel Bridge across the Willamette River, miles 12.1, at Portland, Oregon. This deviation is necessary to accommodate the Rose Parade, and Starlight Parade events. This deviation allows the bridge upper deck to remain in the closed position to allow safe movement of event participants.

DATES: This deviation is effective from 7 p.m. June 1, 2013, until 1 p.m. June 8, 2013.

ADDRESSES: The docket for this deviation, [USCG–2013–0153] is available at *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 deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Randall Overton, Bridge Administrator, Coast Guard Thirteenth District; telephone 206–220–7282, email *Randall.D.Overton@uscg.mil*. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: TriMet of Portland has requested that the upper deck of the Steel Bridge remain closed to vessel traffic to facilitate safe efficient movement of light rail and roadway traffic associated with the Starlight Parade and Rose Parade. The Steel Bridge crosses the Willamette River at mile 12.1 and is a double-deck lift bridge with a lower lift deck and an upper lift deck which operate independent of each other. When both decks are in the down position the bridge provides 26 feet of vertical clearance above Columbia River Datum 0.0. When the lower deck is in the up position the bridge provides 71 feet of vertical clearance above Columbia River Datum 0.0. This deviation does not affect the operating schedule of the lower deck which opens on signal. Vessels that do not require an opening of the upper deck of the bridge may continue to transit beneath the bridge and, if needed, may obtaining an opening of the lower deck of the bridge for passage during this closure period of the upper deck. Under normal conditions the upper deck of the Steel Bridge operates in accordance with 33 CFR 117.897(c)(3)(ii), which states that from 8 a.m. to 5 p.m. Monday through Friday one hour advance notice shall be given for draw openings and at all other times two hours advance notice shall be given to obtain an opening. This deviation period is effective from 7 p.m. on June 1, 2013, until 1 p.m. on June 8, 2013. The deviation allows the Steel Bridge upper deck to remain in the closed position and need not open for maritime traffic from 7 p.m. until 11:30 p.m. on June 1, 2013, and from 7 a.m. until 1 p.m. on June 8, 2013. The bridge shall operate in accordance with 33 CFR 117.897 at all other times. Waterway usage on this stretch of the Willamette River includes vessels ranging from commercial tug and barge to small pleasure craft. Mariners will be notified and kept informed of the bridges' operational status via the Coast Guard Notice to Mariners publication and Broadcast Notice to Mariners as appropriate. The bridge will be required to open, if needed, for vessels engaged in emergency response operations during this closure period.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 14, 2013.

Randall D. Overton,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2013–06989 Filed 3–26–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0152]

Drawbridge Operation Regulations; Snohomish River, Everett, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the SR 529 Bridges across the Snohomish River, mile 3.6 near Everett, WA. The deviation is necessary to facilitate heavy maintenance and equipment upgrades on the bridges. This deviation allows the bridges to remain in the closed position during maintenance activities.

DATES: This deviation is effective from 12:01 a.m. on May 3, 2013, until 11:59 p.m. June 21, 2013.

ADDRESSES: The docket for this deviation, [USCG–2013–0152] is available at *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 deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Randall Overton, Coast Guard Thirteenth District, Bridge Administrator; telephone 206–220–7282, email *Randall.D.Overton@uscg.mil*. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Washington State Department of Transportation (WSDOT) has requested that the SR 529 Bridges across the Snohomish River remain closed to vessel traffic to facilitate heavy maintenance and equipment upgrades on the bridges. The SR 529 Bridges cross the Snohomish River at mile 3.6 and provide 38 feet of vertical clearance above mean high water elevation while in the closed position. Vessels that do not require a bridge opening may continue to transit beneath the bridges during this closure period. Under normal conditions the SR 529 Bridges crossing the Snohomish River operate in accordance with 33 CFR 117.1059(c) which requires advance notification of one-hour when a bridge opening is needed. This deviation period is effective from 12:01 a.m. on May 3, 2013, until 11:59 p.m. June 21, 2013. The deviation allows the SR 529 Bridges crossing the Snohomish River, to remain in the closed position and need not open for maritime traffic from 12:01 a.m. on May 3, 2013, until 11:59 p.m. June 21, 2013. The bridges shall operate in accordance to 33 CFR 117.1059 at all other times. Waterway usage on the Snohomish River includes vessels ranging from commercial tug and barge to small pleasure craft. Mariners will be notified and kept informed of the

bridges' operational status via the construction contractor performing the maintenance as well as via the Coast Guard Notice to Mariners publication and Broadcast Notice to Mariners as appropriate. The bridges will not be able to open during this maintenance activity because the lifting mechanisms will be inoperable.

In accordance with 33 CFR 117.35(e), the drawbridges must return to their regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 14, 2013.

Randall D. Overton,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2013–07002 Filed 3–26–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0159]

Drawbridge Operation Regulations; Pass Manchac, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the regulation governing the operation of the Canadian National (CN) Railroad automated bascule span drawbridge across Pass Manchac, mile 6.7, at Manchac, between St. John and Tangipahoa Parishes, Louisiana. The deviation is necessary to upgrade the electrical drive system and replace the seals on the gear drive unit that operates the bridge. This deviation allows the bridge to remain closed to navigation for six hours on two consecutive days.

DATES: This deviation is effective from 8 a.m. on April 10, 2013, until 2 p.m. April 11, 2013.

ADDRESSES: The docket for this deviation, [USCG–2013–0159] is available at *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 deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Jim Wetherington, Bridge Branch Office, Coast Guard; telephone 504–671–2128, email *james.r.wetherington@uscg.mil.* If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The CN Railroad has requested a temporary deviation from the operating schedule for the automated bascule Span Bridge across Pass Manchac, mile 6.7, at Manchac, between St. John and Tangipahoa Parishes, Louisiana. The bridge has a vertical clearance of eight feet above mean high water, elevation 1.82 feet above Mean Sea Level in the closed-to-navigation position. Vessels requiring a clearance of less than eight feet may transit beneath the bridge during maintenance operations.

In accordance with 33 CFR 117.484, the bridge is not tended and is therefore automated. These operations are described in 33 CFR 117.484. Currently, the bridge remains open until the passage of a train at which time it closes to allow the train to pass. This deviation allows the bridge to remain closed to navigation from 8 a.m. until 2 p.m. on both Wednesday, April 10, 2013, and Thursday, April 11, 2013. At all other times, the bridge will operate in accordance with 33 CFR 117.484.

The closure is necessary to upgrade the electrical drive system and replace the seals on the gear drive unit that operates the bridge. This work is essential for the continued operation of the bridge. Notices will be published in the Eighth Coast Guard District Local Notice to Mariners and will be broadcast via the Coast Guard Broadcast Notice to Mariners System.

Navigation on the waterway consists of small tugs with and without tows, commercial vessels, and recreational craft, including sailboats. Coordination between the Coast Guard and the waterway users determined that there should not be any significant effects on these vessels. The bridge will be unable to open during these repairs and no alternate route is available.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 14, 2013.

David M. Frank,

Bridge Administrator.

[FR Doc. 2013–06985 Filed 3–26–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0149]

Drawbridge Operation Regulations; Inner Harbor Navigation Canal, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the regulation governing the operation of the Senator Ted Hickey (Leon C. Simon) bascule bridge across the Inner Harbor Navigation Canal, mile 4.6, at New Orleans, Louisiana. This deviation is necessary to ensure the safety of pedestrians as they run across the bridge for the Ochsner Ironman 70.3 New Orleans event. This deviation allows the bridge to remain in the closed-to-navigation position continuously during the event.

DATES: This deviation is effective from 8:30 a.m. until 3 p.m. on Sunday, April 21, 2013.

ADDRESSES: The docket for this deviation, [USCG–2013–0149] is available at *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 deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Donna Gagliano, Bridge Administration Branch, Coast Guard, telephone (504) 671–2128, email *Donna.Gagliano@uscg.mil.* If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The bridge owner approved the request for the closure of the Senator Ted Hickey (Leon

C. Simon) Bascule Bridge on Seabrook Highway crossing the Inner Harbor Navigation Canal, mile 4.6, in New Orleans, Louisiana. The bridge provides 45 feet in the closed-to-navigation position above mean sea level. Currently, according to 33 CFR 117.458 (c), the draw of the Leon C. Simon Blvd. (Seabrook) bridge, mile 4.6, shall open on signal; except that, from 7 a.m. to 8:30 a.m. and 5 p.m. to 6:30 p.m. Monday through Friday, the draw need not be opened. This deviation allows the draw span of the bridge to remain closed to navigation from 8:30 a.m. until 3 p.m. on Sunday, April 21, 2013, while the Ironman contenders travel across the bridge as part of the race course. Navigation on the waterway consists mainly of tugs with tows. As a result of coordination between the Coast Guard and the waterway users, it has been determined that this closure will not have a significant effect on these vessels. The Coast Guard will inform users through the Local and Broadcast Notice to Mariners of the closure period. There is an alternate route available via The Rigolets Pass to vessel traffic. Vessels that can pass under the bridge in the closed-to-navigation position can do so at any time. The bridge will not be able to open for emergencies.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 15, 2013.

David M. Frank,

Bridge Administrator.

[FR Doc. 2013–06983 Filed 3–26–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0150]

Drawbridge Operation Regulations; Chef Menteur Pass, at Lake Catherine, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the regulation governing the operation of the U.S. Highway 90 swing highway bridge across the Chef Menteur Pass, mile 2.8, at Lake Catherine, Orleans Parish, Louisiana. The deviation is necessary to ensure the safety of pedestrians/bikers as they cross the bridge for the Ochsner Ironman 70.3 New Orleans event. This deviation allows the bridge to remain in the closed-to-navigation position continuously during the event.

DATES: This deviation is effective from 7:30 a.m. until 2 p.m. on Sunday, April 21, 2013.

ADDRESSES: The docket for this deviation, [USCG–2013–0150] is available at *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 deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Donna Gagliano, Bridge Administration Branch, Coast Guard, telephone (504) 671–2128, email *Donna.Gagliano@uscg.mil.* If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The bridge owner approved the request for the closure of the U.S. Highway 90 swing bridge crossing the Chef Menteur Pass, mile 2.8, at Lake Catherine, Orleans, Parish, Louisiana. The bridge provides 10 feet vertical clearance in the closed-to-navigation position at mean high water. Currently, according to 33 CFR 117.436, the draw of the U.S. Highway 90 bridge, mile 2.8, shall open on signal; except that, from 5:30 a.m. to 7:30 a.m. Monday through Friday, except Federal holidays, the draw need open only for the passage of vessels. The draw shall open at any time for a vessel in distress. This deviation allows the draw span of the bridge to remain closed to navigation from 7:30 a.m. until 2 p.m. on Sunday, April 21, 2013, while the Ironman contenders travel across the bridge as part of the race course. Navigation on the waterway consists mainly of commercial fishermen and sportsman fishermen. As a result of coordination between the Coast Guard and the waterway users, it has been determined that this closure will not have a significant effect on these vessels. The Coast Guard will inform users through the Local and Broadcast Notice to Mariners of the closure period. There is an alternate route available via The Rigolets Pass to vessel traffic. Vessels that can pass under the bridge in the closed-to-navigation position can do so at any time. The bridge will not be able to open for emergencies.

In accordance with 33 CFR 117.436, the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 15, 2013.

David M. Frank,

Bridge Administrator.

[FR Doc. 2013–06984 Filed 3–26–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0154]

Drawbridge Operation Regulations; Willamette River, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Burnside Bridge across the Willamette River, miles 12.4, at Portland, Oregon. This deviation is necessary to accommodate the annual Rose Festival Grand Floral Parade. This deviation allows the bridge to remain in the closed position to allow for the safe movement of event participants.

DATES: This deviation is effective from 7 a.m. until 2 p.m. on June 8, 2013.

ADDRESSES: The docket for this deviation, [USCG–2013–0154] is available at *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 deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Randall Overton, Bridge Administrator, Coast Guard Thirteenth District; telephone 206–220–7282, email *Randall.D.Overton@uscg.mil.* If you

have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: Multnomah County has requested a temporary deviation from the normal operating schedule for the Burnside Bridge, mile 12.4, crossing the Willamette River at Portland, OR. The Burnside Bridge provides a vertical clearance of 64 feet in the closed position; all clearances are referenced to the vertical clearance above Columbia River Datum 0.0. The bridge currently operates in accordance with 33 CFR 117.897 which provides that from 8 a.m. to 5 p.m. Monday through Friday, one hour's notice shall be given for draw openings. At all other times, notice of at least two hours in advance is required. This deviation period starts at 7 a.m. on June 8, 2013 and ends at 2:00 p.m. on June 8, 2013. The deviation allows the Burnside Bridge to remain in the closed position and need not open for maritime traffic from 7 a.m. until 2 p.m. on June 8, 2013. The bridge shall operate in accordance to 33 CFR 117.897 at all other times. Waterway usage on this stretch of the Willamette River includes vessels ranging from commercial tug and barge to small pleasure craft. Mariners will be notified and kept informed of the bridge's operational status via the Coast Guard Notice to Mariners publication and Broadcast Notice to Mariners as appropriate. The bridge will be required to open, if needed, for vessels engaged in emergency response operations during this closure period.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 14, 2013.

Randall D. Overton,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2013–07086 Filed 3–26–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0157]

Drawbridge Operation Regulations; Inner Harbor Navigation Canal, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the regulation governing the operation of the US 90 (Danzinger) vertical lift span drawbridge across the Inner Harbor Navigation Canal, mile 3.10 at New Orleans, Orleans Parish, Louisiana. The deviation is necessary to install monitoring devices on the gearbox that operates the bridge. This deviation allows the bridge to remain closed to navigation for 24 hours.

DATES: This deviation is effective from 6 a.m. on, April 6, 2013, until 6 a.m. on, April 7, 2013.

ADDRESSES: The docket for this deviation, [USCG–2013–0157] is available at *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 deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Kay Wade, Bridge Branch Office, Coast Guard; telephone 504–671–2128, email *Kay.B.Wade@uscg.mil*. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Louisiana Department of Transportation and Development has requested a temporary deviation from the operating schedule for the Vertical Lift Span Bridge across the Inner Harbor Navigation Canal, mile 3.10 at New Orleans, Orleans Parish, Louisiana. The bridge has a vertical clearance of 50 feet above mean high water, elevation 5.0 feet Mean Sea Level in the closed-to-navigation position. Vessels requiring a clearance of less than 50 feet may transit beneath the bridge during operations.

In accordance with 33 CFR 117.458(b), the bridge currently opens on signal for the passage of vessels; except that, from 8 p.m. to 7 a.m. the draw shall open on signal if at least four hours notice is given, and the draw need not be opened from 7 a.m. to 8:30 a.m. and from 5 p.m. to 6:30 p.m. Monday through Friday. This deviation allows the bridge to remain closed to navigation from 6 a.m. on Saturday, April 6, 2013, until 6 a.m. on Sunday, April 7, 2013. At all other times, the bridge will open on signal for the passage of vessels in accordance with 33 CFR 117.458(b).

The closure is necessary in order to install strain gauges and monitoring devices on the bridge's gearbox and associated shafting to get readings. This work is essential for the continued operation of the bridge. Notices will be published in the Eighth Coast Guard District Local Notice to Mariners and will be broadcast via the Coast Guard Broadcast Notice to Mariners System.

Navigation on the waterway consists of small tugs with and without tows, commercial vessels, and recreational craft, including sailboats. Coordination between the Coast Guard and the waterway users determined that there should not be any significant effects on these vessels. The bridge will be unable to open during these repairs; however, an alternate route is available via the Rigolets or Chef Menteur Pass.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 14, 2013.

David M. Frank,

Bridge Administrator.

[FR Doc. 2013–07084 Filed 3–26–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 218

RIN 0596–AD07

Project-Level Predecisional Administrative Review Process

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: The United States Department of Agriculture (the Department) is issuing this final rule to establish the

sole process by which the public may file objections seeking predecisional administrative review for proposed projects and activities implementing land management plans and documented with a Record of Decision (ROD) or Decision Notice (DN). The final rule carries out the direction in the Consolidated Appropriations Act of 2012, section 428, which directs the Secretary of Agriculture, acting through the Chief of the Forest Service, to apply section 105(a) of the Healthy Forests Restoration Act of 2003 (HFRA) to provide for a predecisional objection process. Section 428 further directs the Secretary to apply these procedures in lieu of the procedures required by the Appeal Reform Act (ARA) sections that provided for a postdecisional administrative appeal process for project decisions. This rule revises Forest Service regulations to implement the direction of section 428 and also includes predecisional administrative review procedures applicable to projects authorized pursuant to the Healthy Forests Restoration Act of 2003 (HFRA).

DATES: This rule is effective March 27, 2013.

FOR FURTHER INFORMATION CONTACT: Deb Beighley, Assistant Director, Judicial and Administrative Reviews, Ecosystem Management Coordination Staff, 202–205–1277, or Kevin Lawrence, Administrative Review Specialist, Ecosystem Management Coordination Staff, 202–205–2613.

SUPPLEMENTARY INFORMATION:

Background and Need for the Final Rule

On December 23, 2011, President Obama signed into law the Consolidated Appropriations Act of 2012. Section 428 of the Act (hereafter ''Section 428'') directs the Secretary of Agriculture (Secretary), acting through the Chief of the Forest Service (Chief), to provide for a predecisional objection process based on Section 105(a) of the Healthy Forests Restoration Act of 2003 (HFRA) (16 U.S.C. 6515(a)), for proposed actions of the Forest Service concerning projects and activities implementing land management plans and documented with a Record of Decision or Decision Notice. The Act further directs that these procedures be applied in lieu of subsections (c), (d), and (e) of Section 322 of Public Law 102–381 (16 U.S.C. 1612 note) (Appeal Reform Act or ARA) that collectively provide for a postdecisional administrative appeal process for projects and activities implementing land management plans. The Department has developed this final rule to: (1) Preserve the predecisional objection process already in place for proposed hazardous fuel reduction projects authorized under the HFRA; (2) expand the scope of that objection process to include other covered actions; and (3) establish a process for providing the notice and comment provisions of the ARA.

President Bush signed into law the Healthy Forests Restoration Act of 2003 (HFRA) to reduce the threat of destructive wildfires while upholding environmental standards and encouraging early public input during planning processes. One of the provisions of the Act (sec. 105) required the Secretary to issue an interim final rule establishing a predecisional administrative review process for hazardous fuel reduction projects authorized by the HFRA. The interim final rule was promulgated at 36 CFR part 218 on January 9, 2004 (69 FR 1529), followed by a final rule on September 17, 2008 (73 FR 53705), that incorporated the results of public comment and the knowledge gained through the Agency's experience with implementing the rule.

Congress enacted the ARA in 1992. The ARA states that ''the Secretary of Agriculture, acting through the Chief of the Forest Service, shall establish a notice and comment process for proposed actions of the Forest Service concerning projects and activities implementing land and resource management plans * * * and shall modify the procedure for appeals of decisions concerning such projects.'' ARA section 322(a), 106 Stat. 1419. The ARA (ARA section 322(c), 106 Stat. 1419) further provided that qualifying individuals may file an appeal ''[n]ot later than 45 days after the date of issuance of a decision of the Forest Service concerning actions referred to in subsection (a).* * *'' The Department promulgated implementing regulations for the ARA at 36 CFR part 215 in 1993 and revised them in 2003.

Prior to passage of the HFRA, public notice and comment for hazardous fuel reduction project proposals, and appeal of the decisions, would have been conducted according to the procedures set out at 36 CFR part 215. The HFRA objection rule exempts qualifying hazardous fuel reduction projects from the notice, comment, and appeal procedures set out at part 215 and establishes separate objection procedures specifically for hazardous fuel reduction projects, pursuant to 36 CFR part 218.

Now, through Section 428, Congress has directed the Secretary to apply the predecisional objection established in part 218, in place of the appeal provisions at part 215, for proposed actions regarding projects and activities implementing land management plans and documented with a Record of Decision (ROD) or Decision Notice (DN). The Department has determined the most appropriate way to carry out this direction is to revise part 218, by amending subparts A and B, and creating subpart C.

Subpart A includes general provisions applicable to HFRA and non-HFRA covered projects and activities.

Subpart B provides additional direction that is specific to proposed actions not authorized under the HFRA. This subpart includes the notice and comment requirements directed by subsection (b) of the ARA and the emergency situation provisions directed by Section 428.

Subpart C provides additional direction that is specific to proposed hazardous fuel reduction projects authorized under the HFRA.

Public Involvement and Response to Public Comments

Proposed part 218 was published in the **Federal Register** on August 8, 2012 (77 FR 47337). The 30-day public comment period ended September 7, 2012. The Forest Service received comments from 63 respondents. The Agency analyzed the comments and considered them in developing this final rule. The discussion of public comments below is divided between general comments and those that involve specific sections of the proposed rule. A summary of changes made to the proposed rule is included with the responses.

General Comments

The Department received the following comments not specifically tied to a particular section of the 2012 proposed rule.

Comment: A number of respondents commented on the need to include a requirement in the final rule that a draft environmental assessment (EA) be circulated for public review and comment prior to the beginning of the objection filing period. Some of these respondents asserted that providing an opportunity for public comment on a draft EA is a requirement of National Environmental Policy Act (NEPA), its implementing regulations, and case law. ''* * * FS regulations *do not* give the Forest Service authority to ignore the CEQ [Council on Environmental Quality] regulations and voluminous case law which requires all federal agencies to provide public comment on Environmental Assessments.'' One respondent requested that EAs be

released for 45 days of public comment prior to the objection filing period and another suggested 30 days.

Respondents concerned about the availability of a draft EA ahead of the objection filing period also commented on the limited information that might be available for public comment if a draft EA is not circulated. ''Scoping generally provides only basic information about the project, and does not allow the public to review and comment on the requisite environmental analysis and proposed alternatives. Precluding public comments on the potential environmental effects and alternatives in a draft EA would therefore short-circuit NEPA.'' Some of these respondents also related this concern to the direction in the proposed rule that issues raised in objection must be based on previously submitted specific written comments regarding the proposed project or activity and attributed to the objector, unless the issue is based on new information that arose after the opportunities for comment. ''[W]ithout a draft EA to comment on, interested parties must throw every possible claim in scoping comments to ensure that they have exhausted issues they may wish to raise in objection.''

Response: Direction regarding circulation of NEPA analysis documents is found in the NEPA, the CEQ implementing regulations, and Forest Service implementing regulations. The notice and comment provisions of the Appeal Reform Act (ARA), for which implementation procedures are included in this rule, direct only the requirements by which the public is notified of an opportunity to comment and the length of the comment period. The statute does not specify what information or documentation, other than the required notice, is to be made available as part of the required comment opportunity. For these reasons, any consideration of a requirement to make a draft EA available for public comment is outside the scope of this rule and is appropriately addressed by the Department in Forest Service NEPA regulations at 36 CFR part 220. At this time the Department is not proposing to revise the NEPA regulations at part 220.

Regarding the respondents' concern about the limited information that may be available for comment if a draft EA is not circulated for public comment and how that may affect the ability to raise issues in objection, the direction of the proposed and final rules provides an appropriate response. Section 218.8, paragraph (c) specifies that ''[i]ssues raised in objections must be based on previously submitted specific written comments regarding the proposed project and activity and attributed to the objector, *unless the issue is based on new information that arose after the opportunities for comment.''* [italics added] Thus, when objection issues are based on information in a final EA that is made available at the beginning of an objection filing period, and where that information was not made available during any prior opportunity to comment, those issues will be accepted for review by the reviewing officer.

Comment: Several respondents expressed support for the proposed rule and the predecisional administrative review process that it promulgates. One of these respondents noted specifically that replacing the appeal process with a predecisional objection process would be a welcome change and should result in greater efficiencies.

A few other respondents expressed a preference for the post-decisional appeal process. One respondent stated that ''It is an important check and balance mechanism to guard against summary dismissal action by decision makers.''

Response: The Department believes that considering public concerns early on, before a decision is made aligns with the Forest Service's collaborative approach to forest management and increases the likelihood of resolving those concerns resulting in better, more informed decisions.

Comment: Several respondents provided a number of comments related to direction that is associated, directly or indirectly, with the NEPA and its implementing regulations. These comments encompassed such topics as availability of the Finding of No Significant Impact for public review, content of the Schedule of Proposed Actions, requirements for scoping, and the availability of the project record.

Response: Although a predecisional administrative review process such as the one established through this rule necessarily integrates with implementation of NEPA-related direction and function, nothing in this rule subverts or circumvents applicable requirements found in the NEPA implementing regulations. Additionally, consideration of changes to these NEPA requirements is outside the purpose and scope of this rule.

Comment: The preamble to the proposed rule described the circumstances and uncertainties concerning administrative review of categorically excluded projects, including ongoing litigation in the U.S. Court of Appeals for the Ninth Circuit concerning the applicability of the Appeal Reform Act to categorically excluded (CE) projects implementing land management plans. The Department invited the public to provide written comments concerning treatment of CE projects in the future by the Forest Service.

A sizeable number of respondents provided comment on the treatment of CE projects in administrative review processes. Preferences ranged from no administrative review opportunity for CE projects, to either post-decisional or predecisional administrative review opportunities. Nearly all those who indicated a preference to have CE projects subject to some form of administrative review, suggested the requirements be made applicable to CEs documented with a Decision Memo. Some respondents suggested that if the Appeal Reform Act is repealed through legislative action, the Forest Service should preserve the notice and comment provisions for CE projects.

Response: The Department appreciates all of the input provided on this important subject. Since the proposed rule was published, little has changed with the judicial or legislative environment associated with this question. The Government's appeal to the Ninth Circuit in the *Sequoia ForestKeeper* v. *Tidwell* case remains pending. The Forest Service continues to comply with the nationwide injunction subjecting certain CE projects from the notice, comment, and appeal provisions of the Appeal Reform Act, issued by the U.S. District Court for the Eastern District of California on March 19, 2012. Although several pieces of legislation regarding this question have been introduced in Congress, nothing has been enacted. Therefore, the Department is not yet prepared to make any regulatory changes through this or any other rulemaking. The public responses received in comment on the proposed rule that pertain to this question will be retained for consideration at an appropriate time in the future.

Comment: The preamble to the proposed rule included a description of the history and circumstances associated with the use of legal notices as part of administrative review procedures to provide public notification of opportunities to comment and file appeals or objections. The description also noted that the publication dates of these legal notices is typically used to start the associated comment, appeal, or objection filing periods. The preamble explained that the proposed rule did not vary from the standard practice regarding the use of legal notices, but did request comments and suggestions concerning their use.

Nearly all the respondents who commented on this subject expressed support for the continued use of legal notices to provide public notification of comment and objection opportunities, although many also described problems with their use. As a means of notification, few if any respondents thought that legal notices should be the sole means of notification. Limitations of legal notices were described as including newspapers that have limited distribution and little or no Internet presence.

A common point of concern for respondents is the difficulty in determining the publication date for legal notices. Current administrative review regulations use the publication date of legal notices to establish the beginning date for associated comment, appeal, and objection filing opportunities. These regulations also prohibit the inclusion of a publication date in the legal notices to avoid the complications of sometimes erratic publication schedules.

Most respondents to this question recommended the use of supplemental notification mechanisms, especially email and Web postings on the Internet.

Response: The Department agrees that the system of notifications or administrative review procedures needs improvement. The changes possible at this time are somewhat limited, but the final rule does include some modifications in response to the comments received.

One constraint on changing the method of notification is the Appeal Reform Act (ARA). Section 322(b)(1)(ii) directs the Secretary to give notice of the availability of a covered action for public comment by ''publishing notice of the action in a newspaper of general circulation * * *.'' Section 322(b)(2) directs the Secretary to accept comments within 30 days ''after publication of the notice * * *,'' effectively precluding the use of another mechanism to initiate the start of the comment filing period. Although these requirements do not extend to notifications of the opportunity to file an objection, the Department is reluctant to add confusion by introducing a method of notification of the opportunity to file an objection that is different than that used to notify the public of an opportunity to comment. Also, because the same notification procedures are used for all of the Forest Service's administrative review procedures, introducing a change solely in this rule could introduce confusion.

The Department does believe that direction in this rule supplementing the legal notice publication as a means of notification is appropriate and can address some of the concerns expressed by respondents. Therefore, a direction has been added to the final rule at § 218.7(d) and § 218.24(c)(3).

Although a delay in notification of up to 4 calendar days may reduce the amount of time available to comment or object for some people, the Department believes it is necessary to provide a measure of flexibility for the agency.

Comment: In the preamble to the proposed rule the Department requested public comment on the question of whether the final rule should include specific limitation for the page length of objections. A number of respondents commented on this question and the recommendations were generally evenly split between those who supported a page limit and those who were opposed. The supporters of page limits generally recommended either a 20- or 30-page limit on objections. Those opposed to page limits most commonly referred to the informality of the objection process and the sometimes complex and voluminous environmental documents produced by the Forest Service. Also mentioned was the potential complication of enforcement of page limits without also specifying typographic and style standards to prevent inventive objectors from trying to squeeze more words on a limited number of pages.

Response: After careful consideration, the Department has decided not to include a page limit for objections in the final rule. The establishment of this predecisional administrative review process is an opportunity to create a more open, collaborative approach to administrative reviews and the imposition of a page limit on objections would run counter to that approach. Additionally, the Department prefers, where appropriate, to reduce or otherwise minimize differences between its various administrative review processes. Imposing a page limitation on objections in this final rule would introduce an inconsistency with the other Forest Service administrative review regulations, none of which include a page limit for objections or appeals.

Comments Related to Specific Sections of the Proposed Rule

Subpart A—General Provisions

Section 218.1—Purpose and Scope

Comment: Some respondents expressed concern related to the purpose and scope of the proposed rule. For example, one respondent commented, ''The underlying assumption that appears as a thread throughout this rule is that the only important decision regarding the use of National Forests is the environmental impact decisions. There are multiple other uses which must be considered in a balanced way when determinations for use of public lands are made. For instance, mining, cattle grazing, logging, recreation, etc.'' Another respondent is concerned the rule may disenfranchise members of the local community by ''muting their voices relative to the powerful interests that quite often assert themselves in the Forest Service's land management plans.'' This individual went on to request that the rule work to ensure that the people who live and work in the national forests are provided the greatest opportunity for input as possible.

Response: As described in this section, the general provisions of subpart A establish a predecisional administrative review process for proposed actions of the Forest Service concerning projects and activities implementing land and resource management plans and documented with a Record of Decision (ROD) or Decision Notice (DN). This reflects the direction in Section 428 of the Consolidated Appropriations Act of 2012, and consequently the focus of the administrative review procedures in this rule are project proposals that will be subject to the NEPA environmental analysis and documentation requirements, including the requirements for a ROD or DN. Such project proposals will encompass the full range of natural resources and most public uses managed by the Forest Service. Decisions regarding the mix of uses and activities that take place on National Forest System lands are made as part of land management planning that occurs before, and results in, the specific project proposals that are the subject of this rule.

The Department has designed the provisions of this rule to provide a fair and equitable opportunity to have unresolved public concerns regarding project proposals considered by a higher-level Forest Service line officer. The procedures related to notification, comment, and objection review and response are intended to be applied the same across all interest areas and geographic locations.

Section 218.2—Definitions

Comment: Several respondents addressed the definition of ''comments.'' One respondent asserted that omitting the ability to submit oral comments was in violation of the Appeal Reform Act (ARA) at section 322(b) and ''is just another means by

which the Forest Service is discouraging and limiting public involvement.''

Response: Section 322(b) of the ARA, which is cited by the respondent, states, in part, ''The Secretary shall accept comments on the proposed action * * *.'' This subsection specifies neither written nor oral comments. Subsection (c) of the ARA does state, in part, ''* * * a person who was involved in the public comment process under subsection (b) through submission of *written or oral comments* * * * may file an appeal.'' [italics added] However, Section 428 of the Consolidated Appropriations Act of 2012, directs the Secretary of Agriculture, Acting through the Chief of the Forest Service, to apply section 105(a) of the HFRA *in lieu of* subsections (c), (d), and (e) of the ARA. Thus, with promulgation of this final rule, subsection (c) of the ARA with its reference to submission of written or oral comments does not control the new procedures; while section 105(a) of the HFRA does. Section 105(a)(3) describes the eligibility requirements for predecisional objection as ''a person shall submit * * *, during scoping or the public comment period for the draft environmental analysis for the project, specific *written* comments that relate to the proposed action.'' [italics added] This is the reason the definition of comments, for purposes of this rule, does not include oral comments, because oral comments cannot be considered for purposes of eligibility under the applicable statute.

The Department recognizes the inability to utilize oral comments to establish eligibility to object could be a burden and impediment to full involvment in the objection process for some citizens. Consequently, the definition of ''comments'' (now ''specific written comments'' in the final rule) has been modified to suggest how comments made verbally could still be used to gain eligibility to object while meeting the applicable statutes. The relevant sentence added to the definition states, ''Written comments can include submission of transcriptions or other notes from oral statements or presentations.''

Comment: Others who expressed concerns with the definition of ''comments'' cited the phrases ''designated opportunity for public participation'' and ''specific'' as too vague or uncertain. One respondent questioned whether comments provided by those who may have opportunities to comment that are not available to the general public, such as collaborative groups, would meet the definition. Another respondent questioned whether a commenter who states that they do not like a proposed project but does not explain what it is they do not like about the project would be considered to have submitted a ''specific'' comment under the definition.

Response: The definition of ''comments'' (now ''specific written comments'' in the final rule) has been modified to address these concerns.

Comment: Many respondents commented on the definition of ''emergency situation.'' Most of the comments addressed the part of the definition that states, ''* * * avoiding a loss of economic value sufficient to jeopardize the agency's ability to accomplish project objectives directly related to resource protection or restoration'' and none of those who commented were supportive of that passage as written. However, the concerns were fairly equally divided along somewhat opposing viewpoints. One group of respondents generally did not like the inclusion of ''commodity values'' as a criterion for an emergency situation, stating that emergencies should be reserved for ''true emergencies'' such as action needed to reduce catastrophic damage from floods, windstorms, and ice storms. Another group of respondents generally were not opposed to the inclusion of ''loss of commodity values'' as a criterion, but felt the qualifying clause ''sufficient to jeopardize the agency's ability to accomplish project objectives directly related to resource protection or restoration'' is too limiting. This group believes tieing the definition to resource protection and restoration objectives ''reflects the Forest Service's current focus on forest restoration, rather than on the long-standing concepts of multiple use.''

Response: The definition in the proposed rule modified the long standing definition of emergency situation in the 36 CFR 215 appeal procedures. The new definition primarily modified a passage in the original definition that had been controversial and somewhat problematic: ''substantial economic loss to the federal government.'' Arguments have been made, in and outside the courts, about whether economic loss to the federal government is an appropriate consideration for determining whether an emergency situation exists, and what constitutes a ''substantial'' economic loss to the government in general or in particular instances. The court's have generally sided with the Forest Service in such disputes.

The reality is that although emergency situation determinations (ESDs) have been a relatively uncommon occurrence over the years, the predominant basis for those determinations has been the potential for substantial economic loss to the Federal government. For twenty years, Forest Service Chiefs have concluded that in carefully evaluated situations the potential for substantial economic loss to the Federal government was an appropriate and necessary reason to make an ESD that would permit the expedited implementation of a project. Yet the controversy has continued, in spite of, or perhaps because of, its application.

In nearly all instances that substantial economic loss to the Federal government has been used as the basis for an ESD, the potential or actual loss has been the result of a loss of commodity value, generally wood products declining in value as insects and decay move into dead and dying trees. This is why the new definition references loss of commodity values, rather than substantial economic loss. Additionally, in nearly all instances, the greater concern of the Forest Service has been how that loss of economic value would translate into the loss of the ability to accomplish project objectives. Project objectives include both salvaging wood products and the ability to accomplish other project goals including hazard removal, fuel reduction, site preparation, habitat and watershed improvement, and forest restoration. These goals are addressed in the new definition as ''project objectives directly related to resource protection or restoration.''

For the reasons described above the Department has carefully considered the concerns regarding the scope and function of the ESD definition and has elected to maintain the language of the proposed regulation.

Comment: Two respondents noted that the definition of ''objection period'' in the proposed rule (now ''objection filing period'' in the final for greater consistency in how it is used throughout the rule) incorrectly indicated the objection filing period is 30 days for projects documented with an EA and 45 days for projects documented with an EIS.

Response: The respondents are correct and the definition has been corrected in the final rule to read ''The period following publication of the legal notice in the newspaper or record of an environmental assessment and draft Decision Notice, or final environmental impact statement and draft Record of Decision, for a proposed project or activity during which an objection may be filed with the reviewing officer (§ 218.7(c)(2)(iii) and § 218.6(a) and (b)).''

Comment: One respondent expressed the opinion that the definition of ''objector'' in the proposed rule inappropriately suggests some projects will not have a public comment period on a complete NEPA document. Several other respondents expressed support for the definition because it provides an incentive for early public participation and prevents tardy objections.

Response: The definition in the proposed rule states that an objector is an individual or entity filing an objection who submitted comments specific to the proposed project or activity ''during scoping or other opportunity for public comment.'' The Department sees nothing in that definition to suggest one way or the other what documentation or information will be made available for project comment opportunities.

Section 218.3—Reviewing Officer

Comment: One respondent expressed support for the clarification that Associate Deputy Chiefs, Deputy Regional Foresters, and Deputy Forest Supervisors can be reviewing officers.

Response: The Department appreciates the expression of support for the clarification. These positions routinely have delegations of authority that are consistent with serving as an objection reviewing officer.

Section 218.4—Proposed Projects and Activities Not Subject to Objection

Comment: One respondent commented to request the first sentence of this section be edited to read, ''Proposed projects and activities are not subject to objection when no specific and timely written comments regarding the proposed project or activity (see § 218.2) are received during a designated opportunity for public comment (see § 218.5(a)) *and when the draft decision does not modify the proposed action.''* [text to be added is in italics]

Response: The Department disagrees with the requested edit. The decision made for a project or activity documented with an EA or EIS reflects a choice made by the responsible official from a range of alternatives considered in detail and documented in the analysis document. The proposed action will generally be one of the alternatives considered. Whether the alternative selected in the decision is the proposed action should have no bearing on whether a proposed project or activity is subject to objection when no specific written comments are received during a designated opportunity for public comment.

Section 218.5—Who May File an Objection

Comment: A respondent requested that paragraph (a) be edited to clarify that comment does not have to be submitted during all public comment opportunities by changing the word ''and'' to ''or'' in the sentence that begins ''For proposed projects and activities described in a draft EIS * * *.''

Response: The Department agrees with the request and the edit is made in the final rule.

Comment: One respondent commented as follows:

As written in HFRA, Indian Tribes (if classified as a 'person') would not be allowed to appeal [sic] based on pre-scoping consultation interactions or any other communication that is transmitted through the Federal-Tribal relationship unless such Tribe submitted to being considered a public 'person'. This could be interpreted as an unintended diminishment of tribal sovereignty * * *.

Response: As suggested by the respondent, it is not the intent of the Department to diminish tribal sovereignty in the objection eligibility provisions of this rule. Federal statutory and regulatory requirements that recognize tribal sovereignty and the Federal government's responsibility regarding sovereignty create the potential for Federal-Tribal consultation to occur prior to opportunities for public comment and during which specific written comments could be provided to the responsible official. Consequently, paragraph (b) has been added to this section and states, ''Federally-recognized Indian Tribes and Alaska Native Corporations are also eligible to file an objection when specific written comments as defined in § 218.2 are provided during Federal-Tribal consultations.''

Comment: Two respondents provided comments disagreeing with paragraph (b), which directs that comments received from an authorized representative of an entity are considered those of the entity only, and that a member of an entity must submit specific written comments independently in order to be eligible to file an objection in an individual capacity. No specific rationale was provided for the disagreement. One respondent commented in support of the paragraph.

Response: The Department disagrees with the opinion of the two respondents and believes that when comments conveying eligibility to object are submitted on behalf of, and by a representative of, an entity, the eligibility is appropriately conveyed only to that entity.

Comment: One respondent commented in support of paragraph (c) and one commented that the requirement for multiple individuals and entities listed on an objection to each meet the eligibility requirements puts an unreasonable burden on the public and prevents parties that want to object from joining another, properly filed objection. The respondent requests the requirement be removed.

Response: The Department disagrees the requirement is an unreasonable burden. The primary purpose of the eligibility requirement is to encourage early and helpful involvement in project planning and analysis. To allow individuals who have not established their eligibility by submitting specific written comments during an opportunity for comment to then sign-on to another's objection circumvents the very purpose of the eligibility requirements.

Section 218.6—Computation of Time Periods

Comment. A few comments were received requesting that paragraph (c) include a requirement to publish on the Internet the required legal notices of an EA or final EIS subject to the objection procedures.

Response. The Department agrees with this request and it is addressed more fully in the General Comments section of this preamble.

Comment: Several respondents commented that extensions of time to file an objection should be permitted, generally by request and at the discretion of the responsible official. The respondents assert that extensions are especially necessary when the proposed projects are especially controversial or the analysis documents are complex.

Response: Neither the administrative appeal process under 36 CFR part 215 nor the HFRA administrative objection process at 36 CFR part 218 have included a provision allowing for extension of time to file appeals or objections. These procedures have been in place for many years—20 years in the case of the appeal procedures at part 215—and the Department does not believe the lack of a filing time extension provision has been a signficant problem or burden to the public. In many instances appellants have been able to file quite lengthy and complex project post-decisional appeals within the same timeframe as provided in this final rule for predecisional objections.

Section 218.7—Giving Notice of Objection Process for Proposed Projects and Activities Subject to Objection

Comment: Several comments were provided regarding the requirement in paragraph (b) for the responsible official to promptly make available the EIS or the EA, and a draft Record of Decision or Decision Notice, to those who have requested the documents or are eligible to file an objection. Most of these comments were supportive of the requirement. A few comments recommended that the project record be made available for review by the public, preferably online.

Response: The Department appreciates the expressions of support for the provision. Management of the project record is covered under the Forest Service NEPA regulations at 36 CFR part 220. While there is currently no requirement to make a project record available online, responsible officials have the discretion to do so and it is becoming more common for responsible officials to post project analysis and supporting documentation to a project Web page.

Comment: Some respondents commented on the direction in paragraph (c)(2)(iii) regarding the use of a legal notice publication date as the exclusive means to calculate the time to file an objection and that a specific date must not be included in the notice.

Response: This comment is addressed in the General Comments section of this preamble.

Section 218.8—Filing an Objection

Comment: Although one respondent was supportive of the constraint in the proposed rule on incorporating supporting material by reference in objections, a number of respondents were critical of this provision. Many of these comments recommended that the final rule permit an objector to incorporate by reference any document reasonably available to the Forest Service. Some noted that Forest Service NEPA procedures at 36 CFR 220.4(h) permit incorporation by reference in NEPA analysis documents when the material is reasonably available to the public.

Response: The Department appreciates the concern expressed regarding the limitations on incorporating supporting materials by reference in objections, but believes the limitation is appropriate. Incorporation by reference potentially places a burden on the reviewing officer to locate and retrieve supporting materials that are already in the possession of the objector and can be readily included with the objection as necessary.

Comment: Paragraph (c) of this section directs that issues raised in objection must be based on previously submitted specific written comments regarding the proposed project or activity and attributed to the objector, unless the issue is based on new information that arose after the opportunities for comment. This direction generated mixed reaction from respondents. Comments expressed primary concern that a constraint on issues raised in objections will lead to comment letters raising every possible issue and ''comments on 'everything but the kitchen sink', in order to reserve rights to future objections.'' One respondent asserts that NEPA does not allow the Forest Service to exclude consideration of issues raised prior to the final decision simply because they were not raised previously. Another contends the constraint exceeds the Forest Service's statutory authority for this rulemaking and notes that such a constraint is not part of the HFRA implementing regulations currently at part 218.

Response: Both the objection eligibility requirement and the constraint on issues raised in objection are included in the proposed and final rule to encourage early and active involvement by the public in project planning and analysis. Neither is intended to be used primarily as a mechanism to exclude public involvement or the consideration of important issues. The earlier relevant concerns and information are brought to the attention of the responsible official, the more effective consideration can be ensured. This same approach is reflected in the direction pertaining to the predecisional objection process in the recently promulgated regulations for land management planning at 36 CFR part 219. Including the constraint on issues raised in objection in this rule provides greater consistency between the two applications of a predecisional objection process.

To maintain an appropriate degree of flexibility, the constraint on issues raised in objection includes an exception, that issues not raised in prior comment by the objector may still be raised in objection if they are based on new information that arose after the last opportunity for comment. This exception accommodates the variability in documentation and information that are made available at the time of project comment opportunities. For example, if a draft EA is not circulated for public review and comment prior to the objection filing period, and an interested party identifies an issue with information in the final EA that was not previously available, the exception in this rule allows that issue to be raised in objection.

The Department disagrees with the contention that the lack of a similar issue constraint in the current part 218 indicates inclusion of the constraint in this revision of that same rule exceeds the Department's statutory authority under the HFRA. The fact that an issue constraint was not included in the initial implementation regulation does not mean the Department interpreted the HFRA as precluding it. It simply means that in the time since the promulgation of the final part 218 in 2008, the Department has come to recognize the value in its application.

Comment: Some comment was received concerning the requirements at § 218.8(d)(1) and (2) regarding the inclusion of name and address with objections and providing a signature or other verification of authorship upon request. The respondents expressed concern with the potential release of private information and the potential burden of providing a verification of authorship.

Response: The objection process is intended to be an open and transparent process for considering and seeking resolution of lingering issues. The documents produced as part of the process are necessarily public records. Names and addresses are necessary to the process so that the Forest Service can verify eligibility, extend meeting invitations, and provide written responses to the objections. Based on past experience with both pre- and post-decisional administrative reviews, the Forest Service has rarely needed to request verification of authorship and does not expected this requirement to be a burden to objectors in the future.

Comment: Several respondents questioned the requirement, at paragraph (d)(5), to include in an objection, if applicable, how the objector believes the environmental analysis or draft decision specifically violates law, regulation, or policy. Some of these comments questioned the inclusion of alleged violations of policy, stating that interpretations of policy are subjective and that issues concerning adherence to policy often take the form of unsubstantiated opinions.

Response: Forest Service policy is codified in the agency's directives, specifically the Forest Service Manual and Forest Service Handbook in the form of both direction and guidance. The public should have a reasonable expection that proposed projects and activities are consistent with the agency's policy documents or explanation is given for variances.

Therefore, issues associated with agency policy are appropriate for consideration in a predecisional administrative review as long as the objector is specific in the description of the alleged violation. Although one respondent read this paragraph as indicating an objection will only be accepted if it includes alleged violations of law, regulation or policy, the phrase ''if applicable'' renders this content element as optional.

Comment: One respondent expressed support for the requirement in paragraph (d)(6) to include in objections a statement that demonstrates the link between prior written comments on the proposed project or activity and the content of the objection, unless the objection concerns an issue that arose after the designated opportunity(ies) for comment.

Response: The Department appreciates the expression of support for this provision.

Section 218.9—Evidence of Timely Filing

Comment: A respondent commented that the Forest Service needs to establish a system for timely notification of receipt of objections and comments filed electronically.

Response: The Department agrees with the respondent and has added a new paragraph (b) to this section of the final rule that states ''For emailed objections, the sender should receive an automated electronic acknowledgement from the agency as confirmation of receipt. If the sender does not receive an automated acknowledgement of receipt of the objection, it is the sender's responsibility to ensure timely receipt by other means.'' The same direction is already present at § 218.25(a)(4)(iii) of the final rule, applicable to comments sent by email.

Comment: A respondent noted that use of the phrase ''objection filing date'' is unique within the rule and confusing. The respondent recommends replacing the word ''date'' with ''period.''

Response: The Department agrees and has made the change in the final rule.

Comment: A respondent commented regarding paragraph (a)(2) that date and time for faxes is set up by the fax machine owner and is therefore subject to error. Another respondent recommends clarifying that the objection filing period ends at 11:59 p.m. local time on its final day.

Response: The respondent is correct that the time stamping provided by fax machines is subject to error, but this is also true of other automated and even hand stamping methods for recording time of receipt. It is incumbent on the reviewing officer to assure that automated systems used as part of the objection process are functioning correctly and recording accurate dates and times. That said, timely filing is ultimately the responsibility of the individual or entity filing the objection. The final rule has been edited to clarify that comments or objections submitted electronically must be received by 11:59 p.m. in the time zone of the receiving office on the last day of the filing period.

Section 218.10—Objections Set Aside From Review

Comment: One respondent expressed support for parapgraph (a)(4), which directs setting aside an objection from review when none of the issues included in the objection are based on previously submitted written comments unless one or more of those issues arose after the opportunities for comment. Another respondent recommended adding a ninth item under paragraph (a): ''When the responsible official withdraws the proposed decision notice or proposed record of decision for the respective project or activity.''

Response: The Department appreciates the expression of support for paragraph (a)(4) and agrees with the need to include the scenario described by the second respondent, though not with the exact wording suggested. Paragraph (a)(9) has been added to this section in the final rule to read as follows: ''The responsible official cancels the objection process underway to reinitiate the objection procedures at a later date or withdraw the proposed project or activity.''

Comment: Regarding paragraph (b) of this section, a respondent suggested the public should be provided an opportunity to correct deficiencies in an objection and refile, even if the filing period has closed.

Response: The Department does not agree with this suggestion. To include this provision would in effect leave the objection filing period open-ended, and would complicate both the efforts to resolve issues and to develop a written response to unresolved objections if objections could be modified in some fashion at any time.

Section 218.11—Resolution of Objections

Comment: Several respondents provided comment regarding the conduct of resolution meetings. Among these were recommendations around where meetings must take place and when, or whether, they can be denied. One respondent recommended that a first resolution meeting take place within 15 days of the close of the objection filing period. Another respondent expressed concern that the reviewing officer has the discretion to deny a meeting requested by an objector and a third respondent recommended that reviewing officers be permitted to deny meeting requests only within 15 days of the end of the objection review period, and that otherwise meeting requests from objectors must be accepted.

Response: Resolution meetings are an important element of the objection procedures and can be very valuable in finding opportunities to resolve issues and for the reviewing officer to gain additional understanding of the issues. Nevertheless, the objection process is designed to be carried out within a specified timeframe (30 days for project proposals authorized under HFRA, with no option for extension; 45 days for non-HFRA project proposals, with an option for the reviewing officer to extend for up to 30 days), so it is in the interest of the Forest Service and objectors to retain an appropriate degree of flexibility for carrying out the basic components of the process. It is also in the interest of the Forest Service and objectors to meet as early as can be arranged and to make the meetings as efficient and productive as possible. The number of objectors, number of objection issues, and schedules of the objectors, reviewing officer, and responsible official can all affect whether and how quickly a resolution meeting can be arranged. Consequently, the final rule does not include the respondents' recommendations for the timing of meetings or for whether or when meeting requests can be denied.

Comment: One respondent commented on the involvement of the reviewing officer in resolution meetings, stating that ''The presence of the reviewing officer may inhibit the process of resolution and prejudice the review of the responsible official's decision.'' The respondent recommended that the presence of the reviewing officer at objection resolution meetings should be at the discretion of the responsible official.

Response: Unlike the administrative appeal process at 36 CFR part 215, where the responsible official is required to offer to meet with appellants and neither the appeal reviewing officer nor the appeal deciding officer may attend, under these predecisional objection procedures resolution meetings are intended as an opportunity for the reviewing officer to communicate directly with objectors. Appropriate public involvement and collaboration initiated by the

responsible official are expected to have already occurred by the time the objection procedures are set into motion. The Department sees objection resolution meetings as an opportunity for the reviewing officer to communicate directly with objectors, ask questions, gain a more complete understanding of objection issues, and explore opportunities to resolve issues with the proposal that still remain. The responsible official will generally be present at objection resolution meetings to answer questions as necessary and assist with identifying any opportunities for issue resolution.

Comment: One respondent expressed concern that use of the plural ''meetings'' in this section implies that not all objections can be resolved in a single meeting. The respondent suggested revising the sentence to ''The responsible official should be a participant in any objection resolution meeting.''

Response: The Department agrees with the respondent and the sentence has been edited as suggested.

Comment: One respondent suggested the final rule include requirements for notifying other interested parties of objections filed, making objections available to interested parties, and allowing interested parties to file statements with the reviewing officer and participate in objection resolution meetings.

Response: The limited timeframes for the objection review period in this rule preclude a broader involvement of interested parties. While the Department encourages a collaborative approach to project planning, the administrative review process, by its very nature, does not lend itself to being fully collaborative. That being said, the very fact the objection review process occurs before a final decision has been made increases the opportunities for a more collaborative approach to problem solving. Nothing in the rule prevents interested parties from (1) participating in project planning in such a way that they are eligible to object and therefore are notified directly when an objection filing period begins; (2) requesting copies of objections from the reviewing officer; (3) asking about a schedule of any objection resolution meetings; (4) attending objection resolution meetings and participating at the discretion of the reviewing officer; and (5) obtaining a copy of objection responses.

Comment: A respondent commented that the reviewing officer should not be an ''agency employed staff person'' because such an individual would not have the appearance of providing a fair and impartial review of the issues.

Response: The Forest Service has utilized agency line officers as deciding officials for administrative reviews as long as it has offered administrative reviews. The Department believes this arrangement has worked well and that issues under administrative review are considered fairly. If a designated reviewing officer finds a need to recuse himself or herself from an objection review because previous engagement with the project in question might result in a perceived bias, a provision added to the final rule at § 218.3(a) directs that the Forest Service line officer at the next higher administrative level above that reviewing officer shall assume the reviewing officer responsibilities.

Comment: Paragraph (b)(1) of this section directs that ''A written response must set forth the reasons for the response, but need not be a point-by-point response * * *.'' Some respondents commented that written responses by the reviewing officer should address all major points in an objection, including the rationale for his or her decision, and the rule should not ''provide the reviewing officers the discretion to ignore controversial or complicated issues raised by objectors.''

Response: The Department believes the reviewing officer should have the flexibility and discretion to provide a written response that is appropriate for the objections filed and the issues raised in those objections. The Forest Service's experience with administrative reviews has demonstrated that project issues are presented in a wide range of completeness, specificity, and clarity. This paragraph gives the reviewing officer the flexibility to tailor the written response to the nature of the project, objections, and objection issues. By setting forth the reasons for the response, the reviewing officer will be providing his or her rationale, and although the response does not have to be point-by-point, reviewing officers are generally expected to address issues that are considered central to the objections filed.

Comment: A respondent noted that the proposed rule does not address what happens when the reviewing officer fails to provide a written response to an objection within the alloted timeframe. The respondent suggests that a provision similar to that found in the 36 CFR part 215 appeal regulations be included for instances where this occurs.

Response: The rule provides at § 218.12(a) that the responsible official may not sign a ROD or DN concerning a proposed project or activity until the reviewing officer has responded in writing to all pending objections. Thus, it is in the interest of the reviewing officer and the agency that objection responses be made within the time allowed for the review. For this reason the Department does not believe any additional provision is needed regarding failure to provide a timely written response to objections.

Section 218.12—Timing of Project Decision

Comment: A number of respondents commented on the need for additional direction in the proposed rule regarding what should happen if changes are made to the draft decision document that is made available at the beginning of an objection filing period. One respondent suggested the only differences permitted in the signed decision should be those that ''present fewer and less intense negative environmental impacts than those presented in the proposed decision.'' Most of the respondents commenting on this section requested a requirement be added to the rule that additional public review and opportunity for comment be provided when ''substantial'' changes are made to the project decision document. The suggestion was also made that an additional comment opportunity be provided if significant or substantial changes are made to a project proposal between the last public comment opportunity and the beginning of the objection filing period.

Response: The Department agrees with respondents that major changes should generally not be made to draft decision documents without good cause or without an opportunity for additional public involvement before decisions are signed. The Department's intent is that draft decision documents reflect the responsible official's intended decision, unless circumstances generally related to the objection review process warrant a change. Appropriate response and documentation when a responsible official is presented with new information or changed circumstances is guided by Forest Service NEPA directives.

Comment: A few respondents commented on the implementation of projects following an objection and the signing of the project decision document. One comment suggested there should be a mandatory and temporary (but unspecified) stay of implementation after approval of a DN. Another comment was that projects should be permitted to be implemented immediately after approval of a DN or ROD if no one is eligible to file an objection.

Response: Provisions pertaining to implementation of project decisions

made subsequent to an objection process are outside the scope of the rule. The Department does recognize that the proposed rule lacked direction pertaining to the timing of a project decision when the proposal is not subject to objection because no individual or entity is eligible to object. Therefore, the final rule includes the addition of paragraph (d) in this section to direct that when a project or activity is not subject to objection because no specific and timely written comments were received during a designated opportunity for public comment, the approval of the project or activity must be in accordance with the relevant CEQ and Forest Service NEPA regulations.

Section 218.14—Judicial Proceedings

Comment: A few respondents commented on the section of the proposed rule that states the Department's position regarding Federal judicial review of decisions covered by the rule. The respondents found the section either complicated and ''onerous,'' or confusing. One comment questioned whether an exhaustion of administrative remedies requirement is applicable in the case of predecisional administrative reviews because ''final agency action'' does not occur until the objection period ends and the Forest Service issues a NEPA decision. Another respondent recommended including a specific reference to statutory exhaustion requirements of 7 U.S.C. 6912(e).

Response: The Department believes the section as it was published in the proposed rule correctly and clearly states its position regarding the need to exhaust the administrative review process set out in part 218 before filing for Federal judicial review of a decision covered by the rule. The Department agrees the suggested citation to U.S. Code is relevant to this position and it has been included in the final rule. The HFRA directs that a person may bring a civil action challenging an authorized hazardous fuel reduction project in a Federal district court only if the person has challenged the authorized hazardous fuel reduction project by exhausting the administrative review process established by the Secretary of Agriculture under the HFRA. The Department of Agriculture Reorganization Act of 1994 provides that ''notwithstanding any other provision of law, a person shall exhaust all administrative appeal procedures established by the Secretary or required by law before the person may bring an action in a court of competent jurisdiction against—(1) the Secretary; (2) the Department; or (3) an agency, office, officer, or employee of the Department.''

Comment: One respondent contends an Indian tribe by definition in the language of the Consolidated Appropriations Act of 2012 is not a ''person,'' and that therefore it should be acknowledged in the regulation that ''Indian tribes'' are exempt from exhaustion of administrative review requirements and can initiate judicial review or legislative remedy at any point in time.

Response: The 218.14 Judical Proceedings provision represents the Department's informed understanding and interpretation of Congressional requirements concerning exhaustion of administrative remedies under the 1994 Reorganization Act and the Healthy Forests Restoration Act. Read as a whole, these statutes do not evidence an intent to exempt Tribes from exhausting administrative remedies prior to seeking judicial review.

Section 218.16—Effective Dates

Comment: A respondent commented that applying the predecisional objection process to projects for which the scoping comment period has already passed would be unjust because some citizens may have waited to comment on the draft EA to submit comments and therefore would not be eligible to object if no draft EA is circulated for comment.

Response: Those interested in a particular project proposal are encouraged to provide specific comment at the earliest opportunity. Early feedback can provide the most helpful assistance to the Forest Service as project planning and environmental analysis proceeds. Direction pertaining to public involvement as part of the NEPA process is found in NEPA implementing regulations at 40 CFR parts 1500–1508 and 36 CFR part 220. Although responsible officials have the discretion to circulate draft analysis documentation, including draft EAs, there is not currently, nor has there ever been, a requirement to do so.

Comment: A respondent commented that the ''grace period'' should be much shorter than 6 months and suggested 3 months as a more appropriate period of time to transition to the new administrative review process.

Response: The proposed rule directs that if the legal notice of an opportunity to comment on a proposed project or activity subject to the rule has already been published and the decision document (DN or ROD) is signed within 6 months of the effective date of the rule, the decision will be subject to the administrative appeal process under 36 CFR 215. If the decision will be signed more than 6 months after the effective date of the rule, the project proposal will be subject to the requirements of the rule.

Hundreds of project proposals are made and project decisions signed by the Forest Service each year. When the final rule at part 218 becomes effective there will be project proposals at all stages of development and public involvement. The Department considered a range of possible lengths of time for transitioning to use of the new rule and believes that 6 months provides for the best combination of a smooth, equitable, and efficient transition.

Subpart B—Provisions Specific to Project-Level Proposals Not Authorized Under Heatlthy Forests Restoration Act

Section 218.21—Emergency Situations

Comment: The proposed rule directs that the Chief and Associate Chief are authorized to make the determination that an emergency situation as defined in the rule exists relative to a proposed project or activity. A respondent suggests that the Chief should be able to delegate emergency situation determination (ESD) authority to the Deputy Chief for National Forest Systems and Regional Foresters.

Response: Forest Service administrative appeal regulations at part 215 include an ESD provision similar to that in the proposed rule. Under part 215, when an ESD is made for a project, the normal stay of implementation during the administrative appeal process is lifted and the project may be implemented as soon as the decision has been signed. Under this rule, when an ESD is made the proposed project is not subject to the predecisional objection process and may be implemented immediately after providing the required notification of the decision.

Agency experience with the ESD provision of part 215 has shown that given the uncommon occurrence of such emergency situations and the significance of the procedural effect of an ESD, it is in the best interest of the Forest Service and the public for ESD authority to rest solely with the Chief and Associate Chief.

Comment: Some respondents suggest the public be provided an opportunity to comment on a request for an ESD, including requiring a statement of intent to seek an ESD in scoping notices. One suggestion is that the responsible official be required to ''provide a certification or explanation as to why the agency has authority to seek

emergency status in that particular situation.''

Response: By its nature an emergency situation requires a more rapid response than a non-emergency situation. Responsible officials will be alert to the potential for an emergency situation; however, the conditions that contribute to an emergency situation may not exist from the very beginning of a project proposal. Once the need for an ESD has been identified, it is necessary that project planning, decision making, and implementation proceed as quickly as possible. Projects found to be emergency situations under the provisions of this rule are still subject to the public involvment and other requirements of the NEPA and its implementing regulations, yet the imperative nature of an emergency situation is not compatible with an additional opportunity for public involvement related to the ESD itself. The responsible official's request to the Chief to make an ESD will describe the reasons for the request and any ESDs made by the Chief will include the rationale. These documents are public records and are available upon request.

Comment: A respondent suggests the decision and implementation be stayed 10 days following an ESD to allow the public an opportunity to seek injunctive relief.

Response: Section 428 of the Consolidated Appropriations Act of 2012 directs that when the Chief of the Forest Service determines that an emergency situation exists the proposed action shall not be subject to the predecisional objection process, and implementation shall begin immediately after the Forest Service gives notice of the final decision for the proposed action. Staying implementation of a decision following an ESD would not be consistent with the direction of Congress.

Section 218.22—Proposed Projects and Activities Subject to Legal Notice and Opportunity To Comment

Comment: A respondent suggested, regarding paragraph (e), that research activities should not be subject to objection because they are exempt from an EA or EIS under Departmental regulations at 7 CFR 1b.3(a)(7).

Response: The correct reference is 7 CFR 1b.3(a)(3), which directs that among the category of activities which have been determined not to have a significant individual or cumulative effect on the human environment and are excluded from the preparation of EA's or EIS's are ''Inventories, research activities, and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity.'' The regulation only categorically excludes research activities when they are limited in context and intensity; therefore, research activities that are not limited in context and intensity or are not as otherwise described in the regulation may require preparation of an EA or EIS and would appropriately be subject to the provisions of part 218. To clarify this point, paragraph (e) in the final rule has been edited to read ''Proposed research activities to be conducted on National Forest System land for which an EA or EIS is prepared.''

Section 218.23—Proposed Projects and Activities Not Subject to Legal Notice and Opportunity To Comment

Comment: One respondent, in reference to paragraph (b), commented ''This section claims that 'Land Management Proposals' are separate and apart from property projects. And thus should 'Not be subject to public involvement.' '' A similar comment was made with regard to hazardous fuel reduction projects authorized under the Healthy Forests Restoration Act (HFRA) as described at paragraph (g) of this section.

Response: The respondents misunderstand the paragraphs. Section 218.23 describes proposed projects and activities that are not subject to the legal notice and opportunity to comment procedures *of this subpart.* Paragraph (b) lists proposed land management plans, plan revisions, and plan amendments that are made separately from any proposed projects, and paragraph (g) lists hazardous fuel reduction projects authorized under the HFRA. Therefore, the land management plan and HFRA-authorized proposals are not subject to the opportunity to comment provisions of this rule; however, they are still subject to the public involvement requirements of NEPA regulations at 40 CFR 1500–1508 and 36 CFR 220. In addtion, the plan proposals are subject to public involvement and notification requirements of the Forest Service planning regulations at 36 CFR 219 and the HFRA-authorized projects are subject to public involvement and collaboration requirements under section 104 of the HFRA.

Comment: Paragraph (d) of this section describes proposed projects and activities not subject to the provisions of the NEPA and its implementing regulations as not being subject to the legal notice and opportunity to comment on procedures of subpart B. One respondent requested that the rule provide either a comprehensive list of projects and activities not subject to NEPA or reference to another regulation for a better description of what is included or excluded.

Response: Because of the very broad range of actions taken and decisions made by the Forest Service a comprehensive list of projects and activities not subject to the NEPA would not be reasonable. The references listed in paragraph (d) provide a more complete description of actions subject and not subject to the NEPA, descriptions that are not appropriate to repeat in this rule.

Section 218.24—Notification of Opportunity To Comment on Proposed Projects and Activities

Comment: Paragraph (b) of this section lists the content requirements of the legal notice of an opportunity to comment. One comment requested the addition of a description of the potential issues and concerns of the proposed project and a Web link to a location map.

Response: Paragraph (a)(2) of this section directs the responsible official to determine the most effective timing for publishing the legal notice. Because the amount and type of information developed for a proposal will vary as the planning and environmental analysis process progresses, a more specific description of information to be made available in the legal notice is not feasible. Responsible officials are guided by Forest Service NEPA regulations and directives in determining what project information to make available to the public and when. Paragraph (b)(2) of this section directs that the legal notice shall include sufficient information about the location of a proposed project or activity to allow the interested public to identify the location. A Web link to a map is one possible way to make this information available for those who have access to the Internet.

Comment: A respondent commented that it is unclear if paragraphs (b)(4) and (5), which describe timeframes for commenting on EAs and EISs, applies to emergency situations. The respondent asks, once an emergency situation determination is made, do the notice and comment provisions of the rule still apply?

Response: Section 428 of the Consolidated Appropriations Act of 2012 (''Section 428'') directs that if the Chief of the Forest Service determines an emergency situation exists, the proposed action ''shall not be subject to the pre-decisional objection process * * *.'' The notice and comment requirements of subpart B of this rule implement the direction of the Appeal

Reform Act, sections 322(a) and (b). Although the notice and comment requirements of the ARA and subpart B of this rule are integrated with the predecisional objection process directed by Congress in Section 428 and promulgated in this rule, the Department does not consider them part of the pre-decisional objection process in the context of ESDs. This is demonstrated in paragraph (b)(3) of this section, which directs the responsible official to include in the legal notice a statement, when applicable, that the responsible official is requesting an ESD or that an ESD has been made. If a project proposal was exempt from the notice and comment requirements after an ESD has been made by the Chief or Associate Chief, there would be no reason to require notification of that determination in the legal notice. Thus, the legal notice and opportunity to comment are still required if an ESD is made.

Comment: Some respondents commented that this section should include a requirement that the required legal notice be published at the same time a draft EA is made available for public review and comment.

Response: This comment is addressed in the General Comments section of this preamble.

Section 218.25—Comments on Proposed Projects and Activities

Comment: Several respondents requested that paragraph (a)(1)(iv) of this section include a provision for extensions of time to comment on an EA, for example when the documentation is complex or controversial. One respondent recommended that extensions of up to 15 days be permitted if they are requested by individuals or entities within 15 days of the start of the comment period.

Response: A comment period of 30 days is directed by Congress in Section 322(b)(2) of the Appeal Reform Act and does not provide the Forest Service the opportunity to consider an extension of the comment period.

Comment: Several respondents commented on the different notice and comment requirements regarding EAs for non-HFRA (subpart B of the rule) and HFRA (subpart C of the rule). These comments suggest there is no compelling reason that HFRA and non-HFRA projects should be treated differently under this rule with regard to comments on EAs. ''The Forest Service's new notice-comment-objection regulations attempt to seriously undermine public participation because it fails to use of [sic] a consistent public involvement process that the public can understand and follow.''

Response: Section 428 of the Consolidated Appropriations Act of 2012 (''Section 428'') directs the Secretary of Agriculture, Acting through the Chief of the Forest Service, to apply section 105(a) of the HFRA to provide a pre-decisional objection process to a specified category of projects in lieu of subsections (c), (d), and (e) of the Appeal Reform Act. Because section 105(a) of the HFRA has no specific notice and comment requirements, the implementing regulations for that section, first promulgated as an interim final rule in 2004 and then as a final rule in 2008, have had no specific notice and comment requirements. Direction pertaining to public involvement for HFRA projects has always come from section 104 of the HFRA, and NEPA implementing regulations at 40 CFR parts 1500 through 1508 and 36 CFR part 220.

Notice and comment requirements for projects under the authority of the Appeal Reform Act are found in section 322(a) and (b) of that statute and are unchanged by the direction of Section 428. Therefore, the Department has to develop implementing regulations for two statutes that are related and not in conflict, but result in a potentially confusing combination of requirements, especially pertaining to notice and comment for proposed projects and activities. The Department determined that the most appropriate way to organize implementing regulations under these circumstances was to establish subparts with the requirements specific to each, non-HFRA and HFRA proposed projects and activities.

Comment: Several respondents suggested that paragraph (b) of this section should require the responsible official to respond to all comments in the final EIS or EA or ''an appendix thereto.''

Response: NEPA implementing regulations at 40 CFR 1503.4 require federal agencies to include a response to comments received on a draft EIS in the final EIS. There is no corresponding requirement in Council on Environmental Quality or Forest Service NEPA regulations for EAs. The Department has determined it to be most appropriate to rely on the long-established NEPA direction regarding the use of public comments. Therefore, the final rule requires consideration of public comments received during the required comment opportunity, but appropriately leaves the subject of disposition of those comments to the relevant NEPA regulations.

Section 218.26—Objection Time Periods

A number of respondents provided comment on the timeframes for filing objections and for responding to objections.

Comment: Regarding the time for filing an objection, some of the respondents commenting supported the 45-day filing period for non-HFRA projects in the proposed rule, while others asserted the time should be shortened to 30 days because it would be consistent with the filing time set for HFRA projects and because, in respondents' opinion, it would be more in keeping with Congress' intent to speed management and reduce project delays.

Response: The time period for filing administrative appeals of covered projects has been 45 days since the rule at part 215 was first promulgated in 1993. The Department believes this amount of time has worked reasonably well and provides an appropriate balance between the need to move forward efficiently toward a project decision while offering a reasonable opportunity for review of environmental documents and documenting unresolved issues. The time for filing objections of non-HFRA projects is left at 45 days in the final rule.

Comment: Most of those who commented on the time to respond to objections of non-HFRA projects believed the time should be shortened from 45 days to 30 days. One respondent stated, ''There is nothing in the legislative history of Section 428 to suggest that Congress wanted the HFRA objection process to apply in anything less than the expeditious manner that it is applied to hazardous fuels reduction projects.''

Response: Again, the time for responding to an administrative appeal has also been 45 days since the rule at part 215 was first promulgated in 1993 and this amount of time has generally worked well. Respondents asserted that there is nothing in the legislative history of Section 428 to suggest that Congress wanted different timeframes than are provided under the HFRA objection process, but conversely, neither Section 428 nor the HFRA directs a specific number of days for resolving and responding to objections. The Department chose to use 30 days when the interim final rule implementing the HFRA predecisional objection process was promulgated in 2004, largely in recognition that the type of hazardous fuel reduction projects covered by the act carried an inherent degree of urgency for their accomplishment. Resources, property, and sometimes

lives may be at stake when there is a need to reduce hazardous fuels.

For the reasons described above, the Department believes that a difference in the time required to respond to objections of non-HFRA and HFRA projects is appropriate. The final rule retains a response period for non-HFRA objections for which both the public and the Forest Service are familiar, and provides a reasonable opportunity to explore options for resolving objection issues. It should be noted that the amount of time by which the reviewing officer has the discretion to extend the time for responding to objections has been increased in the final rule from up to 10 days to up to 30 days. The reason for this change is provided in the section of this preamble titled Summary of Changes to the Proposed Rule.

Subpart C—Provisions Specific to Proposed Projects Authorized Under the Healthy Forests Restoration Act

Section 218.31—Authorized Hazardous Fuel Reduction Projects Subject to Objection

Comment: Several respondents commented that the rule must include specific provisions for notice and public comment opportunities on proposed hazardous fuel reduction projects authorized under the HFRA, of the same nature as are included in the rule for non-HFRA projects. The concern expressed by these respondents is that without such notice and comment provisions in this rule the potential exists for those interested in a particular proposal to have no means to gain eligibility to object and the project would be in violation of the NEPA and HFRA.

Response: The projects and activities that are subject to the provisions of this rule, both HFRA-authorized and non-HFRA projects, are also subject to the requirements of the NEPA and its Council on Environmental Quality implementing regulations (40 CFR parts 1500–1508) and Forest Service implementing regulations (36 CFR part 220). The statute and the two regulations include specific provisions for notifying the public of proposed projects and activities, and for providing opportunities for public involvement in the environmental analysis that is conducted for them.

Section 104, paragraphs (e), (f), and (g) of the HFRA also include provisions for public notice, collaboration, and public comment associated with applicable hazardous fuel reduction projects. This final rule provides implementing direction for section 105 of the HFRA, and although implementing regulations for section 104 of the statute are not promulgated in this or any other rule, the statutory requirements of that section are applicable to the same hazardous fuel reduction projects that are subject to this final rule.

This final rule does include additional specific notice and comment requirements for non-HFRA projects and activities because of the statutory direction in the Appeal Reform Act (ARA). Congress enacted the ARA in 1992 and the statute states that the Secretary of Agriculture, acting through the Chief of the Forest Service, shall establish a notice and comment process for proposed actions of the Forest Service concerning projects and activities implementing land and resource management plans (ARA section 322(a), 106 Stat. 1419).

The HFRA was enacted in 2003 and section 105 of that act requires the Secretary to promulgate regulations establishing a predecisional administrative review process that would be the sole means by which a person can seek administrative review regarding hazardous fuel reduction projects authorized by the HFRA. Final implementing regulations were published in 2008 at part 218 and it is that part that is now being revised in this final rule.

Section 428 of the Consolidated Appropriations Act of 2012 directs the Secretary of Agriculture, acting through the Chief of the Forest Service, to provide for a predecisional objection process based on Section 105(a) of the HFRA, for proposed actions of the Forest Service concerning projects and activities implementing land management plans and documented with a Record of Decision or Decision Notice. Section 428 further directs that these procedures be applied in lieu of subsections (c), (d), and (e) of the ARA, but makes no express reference to subsections (a) and (b). Therefore, the Department interprets subsections (a) and (b), which contain the notice and comment provisions of the ARA, as remaining in effect and is therefore promulgating this rule for non-HFRA projects and activities documented in an EA or EIS.

Summary of Changes to the Proposed Rule

Unless otherwise noted, the section numbers listed below reflect the numbering system of the final rule.

Subpart A—General Provisions

Section 218.2 Definitions

Address. The word ''alone'' was added to clarify that while an objector's email address is desirable to aid in communication, the objector's physical mailing address is a minimum requirement when an address is requested.

Decision notice (DN). The definition was edited to improve consistency with the definition provided in the Forest Service NEPA regulations at 36 CFR part 220.

Emergency situation. The definition was moved to § 218.21(b).

Environmental assessment. The definition was edited to improve consistency with the definition provided in the Forest Service NEPA regulations at 36 CFR part 220.

Environmental impact statement. An incorrect citation was removed.

Forest Service line officer. The phrase ''and who has the delegated authority to make and execute decisions approving projects subject to this part'' has been removed because the phase more accurately describes the responsible official than it does a Forest Service line officer.

Name. The word ''complete'' was added to clarify that partial names of entities are not sufficient to establish identity.

Objection filing period. The word ''filing'' was added to provide consistency with how the phrase is used in the rule text. The references to a specified number of calendar days were removed because they were not entirely correct. The phrase ''and draft Decision Notice'' was added after ''environmental assessment'' and the phrase ''and draft Record of Decision'' was added after ''environmental impact statement'' to clarify the documentation that will be made available when an objection filing period is initiated. Appropriate citations to relevant sections of the rule were added. The statement ''The objection filing period closes at 11:59 p.m. in the time zone of the receiving office on the last day of the filing period (§ 218.6(a))'' was added at the end of the definition to provide a more complete definition.

Record of Decision (ROD). An incorrect citation was removed.

Responsible official. The definition was edited to improve consistency with the definition provided in the Forest Service NEPA regulations at 36 CFR part 220.

Specific written comments. The phrase being defined was changed from ''comments'' in the proposed rule to ''specific written comments'' to be more consistent with its usage in the rule text.

Two clarifying sentences were added to the definition. One sentence was added to describe how oral comments could be considered within the parameters of the definition. Another sentence was added to better describe the desired elements of a specific written comment—''within the scope of the proposed action, have a direct relationship to the proposed action, and include comment rationale for the responsible official to consider.''

Section 218.3 Reviewing Officer

In paragraph (a) the phrase ''The reviewing officer is a Forest Service line officer'' was changed to ''The reviewing officer is the Forest Service line officer'' to provide clarification that the reviewing officer may not be just any line officer at the next higher administrative level, but must be the line officer (including the respective Deputy Regional Forester, Deputy Forest Supervisor, or Associate Deputy Chief) directly above the responsible official in the Forest Service organizational structure.

Additionally, paragraph (a) was edited to state that in instances where a project or activity proposal is made by the Chief, the reviewing officer will be the Secretary of Agriculture or Under Secretary, Natural Resources and Environment.

Section 218.5 Who May File an Objection

Paragraph (a) was edited to clarify that opportunities for public comment from which eligibility to object may be established are those where comment is specifically requested by the responsible official. Also in paragraph (a), the phrase ''and any other periods public comment is specifically requested'' was changed to ''or other public involvement opportunity where written comments are requested by the responsible official'' to more correctly convey that, in the case of multiple opportunities for public comment on a project proposal, specific written comments must be provided during any one of those opportunities to gain eligibility to object.

A new paragraph (b) was added to specify that Federally-recognized Indian Tribes and Alaska Native Corporations may also gain eligibility to file objections by submitting specific written comments during Federal-Tribal consultations conducted pursuant to Executive Order 13175 and 25 U.S.C. 450 note. Such government-to-government consultation often occurs outside of comment opportunities available to the general public.

Paragraph designations (b) through (e) in the proposed rule were changed to (c) through (f) because of the addition of a new paragraph (b).

Section 218.6 Computation of Time Periods

The subtitle of paragraph (b) was changed from ''Objection filing period'' to ''Starting date'' to more accurately reflect the content of the paragraph.

Section 218.7 Giving Notice of Objection Process for Proposed Projects and Activities Subject to Objection

Paragraph (b) was edited to more fully and accurately describe the documents that must be made available as part of giving notice of an opportunity to file an objection when an environmental assessment (EA) has been prepared. In addition to the EA, a draft Decision Notice and Finding of No Significant Impact must be made available to those who have requested the documents or are eligible to file an objection to that proposed project or activity.

The second sentence of paragraph (c)(2)(ii) was edited to add the words ''and timely'' in front of ''written comments'' to clarify that specific written comments must be timely, i.e., received before the close of a comment opportunity, to be a basis for gaining eligibility to object.

Paragraph (c)(2)(iv) was removed and the requirement to identify whether the special procedures of subpart B or subpart C is applicable was added at paragraph (c)(2). Paragraph designations (c)(2)(v) and (c)(2)(vi) in the proposed rule were changed to (iv) and (v) because of the removal of the proposed rule's paragraph (iv).

The sentence ''The statement must also describe the evidence of timely filing in § 218.9'' was added to paragraph (c)(2)(v) to require a more complete disclosure of timeliness requirements when giving notice of an opportunity to file an objection. Also in this paragraph, the last sentence beginning with ''It should also be stated that * * *'' was moved to the end of paragraph (c)(2)(vi) because it pertained more to the content of objections than the time period for filing objections.

A new paragraph (d) was added that describes the requirement for posting a copy of the legal notice or **Federal Register** notice of the opportunity to object on the Web. The requirement was added to provide another means for informing those interested in objection filing opportunities. The Web postings must be made within 4 calendar days of the date of publication of the legal notice in the newspaper of record or, when applicable, the **Federal Register**. With the addition of the new paragraph (d), the paragraph designated (d) in the proposed rule has been changed to paragraph (e) in this final rule.

Section 218.8 Filing an Objection

The passage ''or the reviewing officer will designate a lead objector as defined at § 218.5(d)'' was added to the end of paragraph (d)(3) to clarify how the lead objector will be designated when an objection lists multiple names as the filers and no lead objector is identified by the filers.

Paragraph (d)(5) was edited to include the objection content requirement of supporting reasons for the reviewing officer to consider.

Section 218.9 Evidence of Timely Filing

The opening paragraph, which had no designation in the proposed rule, has been designated paragraph (a) and paragraphs (a) through (d) have been redesignated as paragraphs (a)(1) through (4).

A new paragraph (b) has been added that specifies for emailed objections, the sender should receive an automated electronic acknowledgement from the agency as confirmation of receipt. The paragraph further states that if the sender does not receive an automated acknowledgement of receipt of the objection, it is the sender's responsibility to ensure timely receipt by other means. This provision mirrors the provision at § 218.25(a)(4)(iii), which pertains to comments submitted for project-level proposals not subject to the Healthy Forests Restoration Act.

Section 218.10 Objections Set Aside From Review

The word ''specific'' was added before ''written comments'' in paragraph (a)(4) to make the usage of the phrase consistent throughout the rule and a clarifying citation to § 218.8(c) was added to the end of the paragraph.

Paragraph (a)(4) was edited to instruct that the reviewing officer must set aside and not review an objection when, except for issues that arose after the opportunities for comment, none of the issues included in the objection are based on previously submitted specific written comments and the objector has not provided a statement demonstrating a connection between the comments and objection issues.

A new sub-paragraph (9) has been added to paragraph (a) to include an additional instance when objections may be set aside from review. The new provision permits setting aside objections from review when the responsible official cancels the objection

process underway with the intention of reinitiating the objection procedures at a later date or withdrawing the proposed project or activity from further consideration.

Section 218.11 Resolution of Objections

Paragraph (a) has been edited to clarify the extent of responsibility and discretion held by the reviewing officer as it pertains to meetings with objectors. The description of the discretion available to the reviewing officer now reads, ''The reviewing officer has the discretion to determine whether adequate time remains in the review period to make a meeting with the objector practical, the appropriate time and location for any meetings, and how the meetings will be conducted to facilitate the most beneficial dialogue; e.g., face-to-face office meeting, project Web site visit, teleconference, video conference, etc.'' The edit clarifies that the reviewing officer is responsible for all aspects of any meetings with objectors. The paragraph further clarifies that ''[a]ll meetings are not required to be noticed but are open to attendance by the public, and the reviewing officer will determine whether those other than objectors may participate.'' This clarification is consistent with the Agency's policy regarding informal disposition meetings conducted under the administrative appeal process (part 215) that is being replaced by the procedures in this rule.

Section 218.12 Timing of Project Decision

Paragraph (b) has been edited to clarify that the responsible official may not sign a ROD or DN until all concerns and instructions identified by the reviewing officer in the objection response have been addressed.

The proposed rule failed to include a provision for signing a project decision when a proposed project or activity is not subject to objection because no specific and timely written comments were received during a designated opportunity for public comment. Paragraph (d) has been added in the final rule to address such an occurrence and specifies that when a proposed project or activity is to be documented in a ROD its approval must be in accordance with NEPA implementing regulations at 40 CFR 1506.10 and Forest Service NEPA regulations at 36 CFR 220.5(g); and when the proposed project or activity will be documented in a DN its approval must be in accordance with Forest Service NEPA regulations at 36 CFR 220.7(c) and (d).

Section 218.14 Judicial Review

Citations to 7 U.S.C. 6912(e) and 16 U.S.C. 6515(c) have been added to the end of the paragraph.

Subpart B—Provisions Specific to Project-level Proposals Not Authorized Under Healthy Forests Restoration Act

Section 218.21 Emergency Situations

The definition of an emergency situation has been moved from § 218.2 to paragraph (b) of this section. Paragraphs (b) through (d) of the proposed rule have been re-designated as paragraphs (c) through (e) with the inclusion of a new paragraph (b) in the final rule.

Paragraph (c) has been edited to clarify that when the Chief or Associate Chief of the Forest Service has determined that an emergency situation exists with respect to all or part of a proposed project or activity, the proposed action is not subject to the predecisional objection process. This clarification is consistent with the statutory direction at Section 428 of the Consolidated Appropriations Act of 2012.

Section 218.22 Proposed Projects and Activities Subject to Legal Notice and Opportunity To Comment

The phrase ''for which an EA or EIS is prepared'' has been added to paragraph (e) because under Forest Service policy not all research activities conducted on National Forest System land require preparation of an EA or EIS.

Section 218.23 Proposed Projects and Activities Not Subject to Legal Notice and Opportunity To Comment

A new paragraph (c) was added in the final rule to provide necessary consistency with Forest Service land management planning regulations at 36 CFR 219.59(b). With the addition, proposed projects and activities not subject to legal notice and opportunity to comment under the final rule include plan amendments approved in a decision document also approving a project or activity where the amendment applies not just to the included project or activity but to all future projects and activities. Under the land management planning regulations cited above, such proposed projects and activities are subject to the notification and public involvement requirements of those regulations.

With the addition of the new paragraph (c), paragraphs designated (c) through (f) in the proposed rule have been changed to paragraphs (d) through (g) in the final rule.

Section 218.24 Notification of Opportunity To Comment on Proposed Projects and Activities

Paragraph (a)(5) has been removed because the action it describes, identifying all specific written comments, is not a direct function of providing notification of an opportunity to comment on a proposed project or activity. It is an administrative function associated with implementing the procedures of this rule and, as such, will be addressed in the relevant Forest Service directives.

Paragraph (a)(6) has been edited to add specific reference to the § 218.2 where the definition of ''specific written comments'' is found and to add the phrase ''is specifically requested by the responsible official'' to provide improved clarity and greater consistency with the description at § 218.5(a) of the comment opportunities when eligibility to object can be established.

A new paragraph (c)(3) was added that describes the requirement for posting a copy of the legal notice or **Federal Register** notice of the opportunity to object on the Web. The requirement was added to provide another means for those interested in objection filing opportunities to learn about them. The Web postings must be made within 4 calendar days of the date of publication of the legal notice in the newspaper of record or, when applicable, the **Federal Register**.

Section 218.25 Comments on Proposed Projects and Activities

Paragraph (a)(2) has been edited to add the phrase ''in the time zone of the receiving office for comments filed by electronic means such as email or facsimile'' to provide a more complete description of how the end of the comment period will be determined and to add consistency with how the closing of objection filing periods will be determined in the final rule.

Paragraphs (a)(2)(i) and (a)(2)(ii) have been removed because the instruction duplicates that found in paragraphs (a)(1)(i) and (a)(1)(ii).

Paragraph (a)(3)(i) has been edited to clarify that a postal mailing address must be provided with specific written comments by individuals and entities wanting to be eligible to object, and that an email address is recommended but not required.

Paragraphs (a)(3)(iv)(A) and (a)(3)(iv)(B) have been collapsed into paragraph (a)(3)(iv) and the word ''comments'' was added in place of the word ''objections'' to correct an error in the proposed rule.

The phrase ''in the time zone of the receiving office'' was added after the time 11:59 p.m. in paragraph (a)(4)(i) to clarify when the comment period ends for those wanting to establish their eligibility to object.

Section 218.26 Objection Time Periods

The opportunity to resolve concerns associated with a proposed project or activity is an important component of the predecisional administrative review process. For this reason, the proposed rule in paragraph (b) of this section directed that the reviewing officer would have the discretion to extend the time available for responding to objections for up to 10 days when he or she determines that additional time is necessary to provide adequate response to objections or to participate in resolution discussions with the objector(s). In giving further consideration to the logistics and scheduling issues that can occur regarding objection resolution meetings, the Department has determined that a discretionary extension of up to 30 days is more appropriate to ensure a reasonable opportunity for convening meetings and preparing a written response. This paragraph has been edited accordingly in the final rule.

Regulatory Certifications

Regulatory Impact

This final rule has been reviewed under USDA procedures and Executive Order 12866, Regulatory Planning and Review. It has been determined that this is not a significant rule. This final rule will not have an annual effect of $100 million or more on the economy, nor will the final rule adversely affect productivity, competition, jobs, the environment, public health or safety, or State and local governments. This final rule will not interfere with any action taken or planned by another agency or raise new legal or policy issues. Finally, this final rule will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of beneficiaries of those programs.

Moreover, the Department has considered this final rule in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Department has determined that the final rule will not have a significant economic impact on a substantial number of small entities as defined by that Act. Therefore, a regulatory flexibility analysis is not required for this final rule.

Environmental Impact

This final rule revises the procedures and requirements for the administrative review of proposed projects and activities implementing land and resource management plans and documented with a Record of Decision or Decision Notice. Forest Service regulations at 36 CFR 220.6(d)(2) exclude from documentation in an environmental assessment or environmental impact statement ''rules, regulations, or policies to establish servicewide administrative procedures, program processes, or instruction.'' The Department has determined that this final rule falls within this category of actions and that no extraordinary circumstances exist which require preparation of an environmental assessment or environmental impact statement.

Energy Effects

The Department has reviewed this final rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Department has determined that this final rule does not constitute a significant energy action as defined in the Executive Order.

Controlling Paperwork Burdens on the Public

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Forest Service requested and received approval of a new information collection requirement for part 218: *OMB Number:* 0596–0172. During the public comment period for proposed part 218, comments were sought on the information collection requirement associated with the predecisional administrative objection process in part 218; no comments on the information collection requirement were received.

Federalism

The Department has considered this final rule under Executive Order 13132 on federalism. The Department has determined that this final rule conforms with the federalism principles set out in this executive order; will not impose any compliance costs on the States; and will not have substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the Department concludes that this final rule does not have federalism implications.

Consultation and Coordination With Indian Tribal Governments

Pursuant to Executive Order 13175 of November 6, 2000, ''Consultation and Coordination with Indian Tribal Governments,'' to the extent practicable and permitted by law, the Forest Service is required to consult with federally recognized Indian Tribes before promulgating a regulation that has tribal implications, that imposes substantial direct compliance costs on Indian tribal governments, and that is not required by statute. Pursuant to Executive Order 13175, the Forest Service determined that this rule would not have Tribal implications requiring advance notification. Yet the Forest Service maintains its strong commitment to government-to-government consultation on Agency policies that may substantial affect federally-recognized Indian Tribes, and to consulting with Alaska Native Corporations. In that spirit, information about the proposed rule was sent to the Forest Service Regional Offices on March 21, 2012, with instructions to distribute the information to tribes in their region by April 2, 2012, and to follow up with visits to tribes if requests for consultation were received. The information about the proposed rule included a copy of the current (at that time) regulation at 36 CFR 218, annotated to show the key revisions contemplated by the Forest Service to promulgate the requirements of the Consolidated Appropriations Act for 2012, Section 428. On July 13, 2012, the Forest Service Regional Offices were notified that due to changes in the timeline for publication of the proposed rule, the tribal consultation period was being extended and that tribes were to be notified of this extension by July 31, 2012. Finally, the proposed rule was published in the **Federal Register** on August 8, 2012, beginning a 30-day public comment period to coincide with the end of the tribal consultation period. As a result of this consultation effort, a total of 159 days—April 2, 2012 to September 7, 2012—was provided for an opportunity to formally consult on the proposed rule.

Comments from two tribes were received, and no requests for government-to-government consultation were made. One Tribe expressed concern about the amount of time provided for formal consultation on the proposed rule and the amount of information made available during that time. The Tribe asserted that the formal consultation offered was not in compliance with a July 2012 Interim Directive requiring a minimum 120 days

of formal consultation on proposed national-level actions. The Tribe expressed its belief that to be consistent with Forest Service policy, the Forest Service should, *prior* to issuing the final rule, provide an additional 90 days for tribes to consult formally with the Forest Service.

As described above, a total of 159 days was provided for formal consultation with Federally-recognized Indian Tribes and Alaska Native Corporations on the proposed rule at part 218. The formal consultation period of 159 days was fully consistent with the Interim Directive to Forest Service Handbook 1509.13, issued on July 17, 2012, while the opportunity for formal consultation on the proposed rule was already underway. Because the consultation on the proposed rule complies with Forest Service policy, no additional time for formal consultation on the final rule at part 218 is necessary.

Comments provided by another Tribe asserted ''* * * interdepartmental fund transfers could be supplied to fund tribes in the operation of mutually beneficial programs and projects. This should be clarified in the regulation so as to facilitate and expedite planning implementation, research, monitoring and continued consultation to further the effectiveness of the Federal-Tribal Relationship in regards to wildland fire management and programs.'' Funding mechanisms for project planning and implementation are outside the scope of the rule at part 218 and therefore not addressed in this final rule. This same Tribe also provided several comments specific to certain sections of the proposed rule, including § 218.5—Who May File an Objection and § 218.14—Judicial Proceedings. The responses to those comments, including changes made to the proposed rule as part of comment response, are included in the preceding section of this preamble, titled Public Involvement and Response to Public Comments.

The Department has determined that this final rule does not have substantial direct or unique effects on Indian tribes. This final rule is revising predecisional administrative review regulations for proposed projects and activities implementing land and resource management plans and documented with a Record of Decision or Decision Notice. Tribal governments may participate in the administrative objection process by establishing eligibility as provided at § 218.5 and then filing a timely objection in accordance with the requirements at § 218.8.

No Takings Implications

The Department has analyzed this final rule in accordance with the principles and criteria contained in Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. The Department has determined that this final rule will not pose the risk of a taking of private property.

Civil Justice Reform

The Department has reviewed this final rule under Executive Order 12988 on civil justice reform. Upon adoption of this final rule, (1) all State and local laws and regulations that conflict with this rule or that impede full implementation of the rule will be preempted; (2) no retroactive effect will be given to this final rule; and (3) this final rule will not require the use of administrative proceedings before parties could file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Department has assessed the effects of this final rule on State, local, and tribal governments and the private sector. This final rule will not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

List of Subjects in 36 CFR Part 218

Administrative practice and procedure, National forests.

For the reasons set forth in the preamble, 36 CFR part 218 is revised to read as follows:

PART 218—PROJECT-LEVEL PREDECISIONAL ADMINISTRATIVE REVIEW PROCESS

Subpart A—General Provisions

Sec.
218.1 Purpose and scope.
218.2 Definitions.
218.3 Reviewing officer.
218.4 Proposed projects and activities not subject to objection.
218.5 Who may file an objection.
218.6 Computation of time periods.
218.7 Giving notice of objection process for proposed projects and activities subject to objection.
218.8 Filing an objection.
218.9 Evidence of timely filing.
218.10 Objections set aside from review.
218.11 Resolution of objections.
218.12 Timing of project decision.
218.13 Secretary's authority.
218.14 Judicial proceedings.
218.15 Information collection requirements.
218.16 Effective dates.

Subpart B—Provisions Specific to Project-Level Proposals Not Authorized Under the Healthy Forests Restoration Act

218.20 Applicability and scope.
218.21 Emergency situations.
218.22 Proposed projects and activities subject to legal notice and opportunity to comment.
218.23 Proposed projects and activities not subject to legal notice and opportunity to comment.
218.24 Notification of opportunity to comment on proposed projects and activities.
218.25 Comments on proposed projects and activities.
218.26 Objection time periods.

Subpart C—Provisions Specific to Proposed Projects Authorized Under the Healthy Forests Restoration Act

218.30 Applicability and scope.
218.31 Authorized hazardous fuel reduction projects subject to objection.
218.32 Objection time periods.

Authority: Pub. L. 108–148, 117 Stat 1887 (16 U.S.C. 6515 note); Sec. 428, Pub. L. 112–74 125 Stat 1046.

Subpart A—General Provisions

§ 218.1 Purpose and scope.

This subpart establishes a predecisional administrative review (hereinafter referred to as ''objection'') process for proposed actions of the Forest Service concerning projects and activities implementing land and resource management plans documented with a Record of Decision or Decision Notice, including proposed authorized hazardous fuel reduction projects as defined in the Healthy Forests Restoration Act of 2003 (HFRA). The objection process is the sole means by which administrative review of qualifying projects.

(a) This subpart A provides the general provisions of the objection process, including who may file objections to proposed projects and activities, the responsibilities of the participants in an objection, and the procedures that apply for review of the objection.

(b) Subpart B of this part includes provisions that are specific to proposed projects and activities implementing land and resource management plans documented with a Record of Decision or Decision Notice, except those authorized under the HFRA.

(c) Subpart C of this part includes provisions that are specific to proposed hazardous fuel reduction projects authorized under the HFRA.

§ 218.2 Definitions.

The following definitions apply to this part:

Address. An individual's or organization's current physical mailing address. An email address alone is not sufficient.

Authorized hazardous fuel reduction project. A hazardous fuel reduction project authorized by the Healthy Forests Restoration Act of 2003 (HFRA).

Decision notice (DN). A concise written record of a responsible official's decision when an environmental assessment and a finding of no significant impact (FONSI) have been prepared (36 CFR 220.3). The draft decision notice made available pursuant to § 218.7(b) will include a draft FONSI unless an environmental impact statement is expected to be prepared.

Entity. For purposes of eligibility to file an objection (§ 218.5), an entity includes non-governmental organizations, businesses, partnerships, state and local governments, Alaska Native Corporations, and Indian Tribes.

Environmental assessment (EA). A concise public document for which a Federal agency is responsible that provides sufficient evidence and analysis for determining whether to prepare an environmental impact statement (EIS) or a finding of no significant impact (FONSI), aids an agency's compliance with the National Environmental Policy Act (NEPA) when no EIS is necessary, and facilitates preparation of a statement when one is necessary (40 CFR 1508.9(a)).

Environmental impact statement (EIS). A detailed written statement as required by Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 (40 CFR 1508.11).

Forest Service line officer. The Chief of the Forest Service or a Forest Service official who serves in the direct line of command from the Chief.

Lead objector. For an objection submitted with multiple individuals and/or entities listed, the individual or entity identified to represent all other objectors for the purposes of communication, written or otherwise, regarding the objection.

Name. The first and last name of an individual or the complete name of an entity. An electronic username is insufficient for identification of an individual or entity.

National Forest System land. All lands, waters, or interests therein administered by the Forest Service (36 CFR 251.51).

Newspaper(s) of record. Those principal newspapers of general circulation annually identified in a list and published in the **Federal Register** by each regional forester to be used for publishing notices of projects and activities implementing land management plans.

Objection. The written document filed with a reviewing officer by an individual or entity seeking predecisional administrative review of a proposed project or activity implementing a land management plan, including proposed HFRA-authorized hazardous fuel reduction projects, and documented with an environmental assessment or environmental impact statement.

Objection filing period. The period following publication of the legal notice in the newspaper of record of an environmental assessment and draft Decision Notice, or final environmental impact statement and draft Record of Decision, for a proposed project or activity during which an objection may be filed with the reviewing officer (§ 218.7(c)(2)(iii) and § 218.6(a) and (b)). When the Chief is the responsible official the objection period begins following publication of a notice in the **Federal Register** (§ 218.7(c)(2)(iii)). The objection filing period closes at 11:59 p.m. in the time zone of the receiving office on the last day of the filing period (§ 218.6(a)).

Objection process. The procedures established in this subpart for predecisional administrative review of proposed projects or activities implementing land management plans, including proposed HFRA-authorized hazardous fuel reduction projects.

Objector. An individual or entity filing an objection who submitted written comments specific to the proposed project or activity during scoping or other opportunity for public comment. The use of the term ''objector'' applies to all persons or entities who meet eligibility requirements associated with the filed objection (§ 218.5).

Record of decision (ROD). A document signed by a responsible official recording a decision that was preceded by preparation of an environmental impact statement (EIS) (see 40 CFR 1505.2).

Responsible official. The Agency employee who has the authority to make and implement a decision on a proposed action subject to this part.

Specific written comments. Written comments are those submitted to the responsible official or designee during a designated opportunity for public participation (§ 218.5(a)) provided for a proposed project. Written comments can include submission of transcriptions or other notes from oral statements or presentation. For the purposes of this rule, specific written comments should be within the scope of the proposed action, have a direct relationship to the proposed action, and must include supporting reasons for the responsible official to consider.

§ 218.3 Reviewing officer.

(a) The reviewing officer is the U.S. Department of Agriculture (USDA) or Forest Service official having the delegated authority and responsibility to review an objection filed under this part. For project or activity proposals made below the level of the Chief, the reviewing officer is the Forest Service line officer at the next higher administrative level above the responsible official, or the respective Associate Deputy Chief, Deputy Regional Forester, or Deputy Forest Supervisor with the delegation of authority relevant to the provisions of this part. When a project or activity proposal is made by the Chief, the Secretary of Agriculture or Under Secretary, Natural Resources and Environment is the reviewing officer.

(b) The reviewing officer determines procedures to be used for processing objections when the procedures are not specifically described in this part, including, to the extent practicable, such procedures as needed to be compatible with the administrative review processes of other Federal agencies, when projects are proposed jointly. Such determinations are not subject to further administrative review.

§ 218.4 Proposed projects and activities not subject to objection.

Proposed projects and activities are not subject to objection when no timely, specific written comments regarding the proposed project or activity (see § 218.2) are received during any designated opportunity for public comment (see § 218.5(a)). The responsible official must issue a statement in the Record of Decision or Decision Notice that the project or activity was not subject to objection.

§ 218.5 Who may file an objection.

(a) Individuals and entities as defined in § 218.2 who have submitted timely, specific written comments regarding a proposed project or activity that is subject to these regulations during any designated opportunity for public comment may file an objection. Opportunity for public comment on a draft EIS includes request for comments during scoping, the 40 CFR 1506.10 comment period, or other public involvement opportunity where written comments are requested by the responsible official. Opportunity for

public comment on an EA includes during scoping or any other instance where the responsible official seeks written comments.

(b) Federally-recognized Indian Tribes and Alaska Native Corporations are also eligible to file an objection when specific written comments as defined in § 218.2 are provided during Federal-Tribal consultations.

(c) Comments received from an authorized representative(s) of an entity are considered those of the entity only. Individual members of that entity do not meet objection eligibility requirements solely on the basis of membership in an entity. A member or an individual must submit timely, specific written comments independently in order to be eligible to file an objection in an individual capacity.

(d) When an objection lists multiple individuals or entities, each individual or entity must meet the requirements of paragraph (a) of this section. If the objection does not identify a lead objector as required at § 218.8(d)(3), the reviewing officer will delegate the first eligible objector on the list as the lead objector. Individuals or entities listed on an objection that do not meet eligibility requirements will not be considered objectors. Objections from individuals or entities that do not meet the requirements of paragraph (a) of this section will not be accepted and will be documented as such in the objection record.

(e) Federal agencies may not file objections.

(f) Federal employees who otherwise meet the requirements of this subpart for filing objections in a non-official capacity must comply with Federal conflict of interest statutes at 18 U.S.C. 202–209 and with employee ethics requirements at 5 CFR part 2635. Specifically, employees must not be on official duty nor use Government property or equipment in the preparation or filing of an objection. Further, employees must not use or otherwise incorporate information unavailable to the public, such as Federal agency documents that are exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)).

§ 218.6 Computation of time periods.

(a) *Computation.* All time periods are computed using calendar days, including Saturdays, Sundays, and Federal holidays. However, when the time period expires on a Saturday, Sunday, or Federal holiday, the time is extended to the end of the next Federal working day as stated in the legal notice (11:59 p.m. in the time zone of the receiving office for objections filed by electronic means such as email or facsimile).

(b) *Starting date.* The day after publication of the legal notice required by § 218.7(c) is the first day of the objection-filing period.

(c) *Publication date.* The publication date of the legal notice of the EA or final EIS in the newspaper of record or, when the Chief is the responsible official, the **Federal Register**, is the exclusive means for calculating the time to file an objection. Objectors may not rely on dates or timeframe information provided by any other source.

(d) *Extensions.* Time extensions are not permitted except as provided at paragraph (a) of this section, and § 218.26(b).

§ 218.7 Giving notice of objection process for proposed projects and activities subject to objection.

(a) In addition to the notification required in paragraph (c) of this section, the responsible official must disclose during scoping and in the EA or EIS that the proposed project or activity is:

(1) A hazardous fuel reduction project as defined by the HFRA, section 101(2), that is subject to subparts A and C of this part, or

(2) A project or activity implementing a land management plan and not authorized under the HFRA, that is subject to subparts A and B of this part.

(b) The responsible official must promptly make available the final EIS or the EA, and a draft Record of Decision (ROD) or draft Decision Notice (DN) and Finding of No Significant Impact (FONSI), to those who have requested the documents or are eligible to file an objection in accordance with § 218.5(a).

(c) Upon distribution, legal notice of the opportunity to object to a proposed project or activity must be published in the applicable newspaper of record identified as defined in § 218.2 for the National Forest System unit. When the Chief is the responsible official, notice must be published in the **Federal Register**. The legal notice or **Federal Register** notice must:

(1) Include the name of the proposed project or activity, a concise description of the draft decision and any proposed land management plan amendments, name and title of the responsible official, name of the forest and/or district on which the proposed project or activity will occur, instructions for obtaining a copy of the final EIS or EA and draft ROD or DN as defined in § 218.2, and instructions on how to obtain additional information on the proposed project or activity.

(2) State that the proposed project or activity is subject to the objection process pursuant to 36 CFR part 218; identify whether the special procedures of subpart B or subpart C of this part are applicable; and include the following:

(i) Name and address of the reviewing officer with whom an objection is to be filed. The notice must specify a street, postal, fax, and email address, the acceptable format(s) for objections filed electronically, and the reviewing officer's business hours for those filing hand-delivered objections.

(ii) A statement that objections will be accepted only from those who have previously submitted specific written comments regarding the proposed project during scoping or other designated opportunity for public comment in accordance with § 218.5(a). The statement must also specify that issues raised in objections must be based on previously submitted timely, specific written comments regarding the proposed project unless based on new information arising after designated opportunities.

(iii) A statement that the publication date of the legal notice in the newspaper of record or **Federal Register** notice is the exclusive means for calculating the time to file an objection (see §§ 218.26(a) and 218.32(a)), and that those wishing to object should not rely upon dates or timeframe information provided by any other source. A specific date must not be included in the notice.

(iv) A statement that an objection, including attachments, must be filed (regular mail, fax, email, hand-delivery, express delivery, or messenger service) with the appropriate reviewing officer (see §§ 218.3 and 218.8) within 30 days of the date of publication of the legal notice for the objection process if the proposal is an authorized hazardous fuel reduction project, or within 45 days if the proposal is otherwise a project or activity implementing a land management plan. The statement must also describe the evidence of timely filing in § 218.9.

(v) A statement describing the minimum content requirements of an objection (see § 218.8(d)) and identify that incorporation of documents by reference is permitted only as provided for at § 218.8(b).

(d) Within 4 calendar days of the date of publication of the legal notice in the newspaper of record or, when applicable, the **Federal Register**, a digital image of the legal notice or **Federal Register** publication, or the exact text of the notice, must be made available on the Web. Such postings must clearly indicate the date the notice was published in the newspaper of

record or **Federal Register**, and the name of the publication.

(e) Through notice published annually in the **Federal Register**, each regional forester must advise the public of the newspaper(s) of record utilized for publishing legal notice required by this part.

§ 218.8 Filing an objection.

(a) Objections must be filed with the reviewing officer in writing. All objections are available for public inspection during and after the objection process.

(b) Incorporation of documents by reference is not allowed, except for the following list of items that may be referenced by including date, page, and section of the cited document, along with a description of its content and applicability to the objection. All other documents must be included with the objection.

(1) All or any part of a Federal law or regulation.

(2) Forest Service directives and land management plans.

(3) Documents referenced by the Forest Service in the proposed project EA or EIS that is subject to objection.

(4) Comments previously provided to the Forest Service by the objector during public involvement opportunities for the proposed project where written comments were requested by the responsible official.

(c) Issues raised in objections must be based on previously submitted specific written comments regarding the proposed project or activity and attributed to the objector, unless the issue is based on new information that arose after the opportunities for comment. The burden is on the objector to demonstrate compliance with this requirement for objection issues (see paragraph (d)(6) of this section).

(d) At a minimum, an objection must include the following:

(1) Objector's name and address as defined in § 218.2, with a telephone number, if available;

(2) Signature or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the objection);

(3) When multiple names are listed on an objection, identification of the lead objector as defined in § 218.2. Verification of the identity of the lead objector must be provided upon request or the reviewing officer will designate a lead objector as provided in § 218.5(d);

(4) The name of the proposed project, the name and title of the responsible official, and the name(s) of the national forest(s) and/or ranger district(s) on which the proposed project will be implemented;

(5) A description of those aspects of the proposed project addressed by the objection, including specific issues related to the proposed project; if applicable, how the objector believes the environmental analysis or draft decision specifically violates law, regulation, or policy; suggested remedies that would resolve the objection; supporting reasons for the reviewing officer to consider; and

(6) A statement that demonstrates the connection between prior specific written comments on the particular proposed project or activity and the content of the objection, unless the objection concerns an issue that arose after the designated opportunity(ies) for comment (see paragraph (c) of this section).

§ 218.9 Evidence of timely filing.

(a) It is the objector's responsibility to ensure timely filing of a written objection with the reviewing officer. Timeliness must be determined by the following indicators:

(1) The date of the U.S. Postal Service postmark for an objection received before the close of the fifth business day after the objection filing period;

(2) The agency's electronically generated posted date and time for email and facsimiles;

(3) The shipping date for delivery by private carrier for an objection received before the close of the fifth business day after the objection filing period; or

(4) The official agency date stamp showing receipt of hand delivery.

(b) For emailed objections, the sender should receive an automated electronic acknowledgement from the agency as confirmation of receipt. If the sender does not receive an automated acknowledgment of receipt of the objection, it is the sender's responsibility to ensure timely filing by other means.

§ 218.10 Objections set aside from review.

(a) The reviewing officer must set aside and not review an objection when one or more of the following applies:

(1) Objections are not filed in a timely manner (see §§ 218.7(c)(2)(v) and 218.9).

(2) The proposed project is not subject to the objection procedures in §§ 218.1, 218.4, 218.20, and 218.31.

(3) The individual or entity did not submit timely and specific written comments regarding the proposed project or activity during scoping or another designated opportunity for public comment (see § 218.5(a)).

(4) Except for issues that arose after the opportunities for comment, none of the issues included in the objection are based on previously submitted specific written comments and the objector has not provided a statement demonstrating a connection between the comments and objection issues (see §§ 218.8(c) and 218.8(d)(6)).

(5) The objection does not provide sufficient information as required by § 218.8(d)(5) and (6) for the reviewing officer to review.

(6) The objector withdraws the objection.

(7) An objector's identity is not provided or cannot be determined from the signature (written or electronically scanned) and a reasonable means of contact is not provided (see § 218.8(d)(1) and (2)).

(8) The objection is illegible for any reason, including submissions in an electronic format different from that specified in the legal notice.

(9) The responsible official cancels the objection process underway to reinitiate the objection procedures at a later date or withdraw the proposed project or activity.

(b) The reviewing officer must give prompt written notice to the objector and the responsible official when an objection is set aside from review and must state the reasons for not reviewing the objection. If the objection is set aside from review for reasons of illegibility or lack of a means of contact, the reasons must be documented and a copy placed in the objection record.

§ 218.11 Resolution of objections.

(a) *Meetings.* Prior to the issuance of the reviewing officer's written response, either the reviewing officer or the objector may request to meet to discuss issues raised in the objection and potential resolution. The reviewing officer has the discretion to determine whether adequate time remains in the review period to make a meeting with the objector practical, the appropriate date, duration, agenda, and location for any meeting, and how the meeting will be conducted to facilitate the most beneficial dialogue; e.g., face-to-face office meeting, project site visit, teleconference, video conference, etc. The responsible official should be a participant along with the reviewing officer in any objection resolution meeting. Meetings are not required to be noticed but are open to attendance by the public, and the reviewing officer will determine whether those other than objectors may participate.

(b) *Reviewing officer's response to objections.* (1) A written response must set forth the reasons for the response, but need not be a point-by-point response and may contain instructions to the responsible official, if necessary. In cases involving more than one

objection to a proposed project or activity, the reviewing officer may consolidate objections and issue one or more responses.

(2) No further review from any other Forest Service or USDA official of the reviewing officer's written response to an objection is available.

§ 218.12 Timing of project decision.

(a) The responsible official may not sign a ROD or DN subject to the provisions of this part until the reviewing officer has responded in writing to all pending objections (see § 218.11(b)(1)).

(b) The responsible official may not sign a ROD or DN subject to the provisions of this part until all concerns and instructions identified by the reviewing officer in the objection response have been addressed.

(c) When no objection is filed within the objection filing period (see §§ 218.26 and 218.32):

(1) The reviewing officer must notify the responsible official.

(2) Approval of the proposed project or activity documented in a ROD in accordance with 40 CFR 1506.10, or in a DN may occur on, but not before, the fifth business day following the end of the objection filing period.

(d) When a proposed project or activity is not subject to objection because no timely, specific written comments regarding the proposal were received during a designated opportunity for public comment (see § 218.4), the approval of a proposed project or activity documented in a ROD must be in accordance with 40 CFR 1506.10 and 36 CFR 220.5(g), and the approval of a proposed project or activity documented in a DN must be made in accordance with 36 CFR 220.7(c) and (d).

§ 218.13 Secretary's authority.

(a) Nothing in this section shall restrict the Secretary of Agriculture from exercising any statutory authority regarding the protection, management, or administration of National Forest System lands.

(b) Projects and activities proposed by the Secretary of Agriculture or the Under Secretary, Natural Resources and Environment, are not subject to the procedures set forth in this part. Approval of projects and activities by the Secretary or Under Secretary constitutes the final administrative determination of the U.S. Department of Agriculture.

§ 218.14 Judicial proceedings.

(a) The objection process set forth in this subpart fully implements Congress' design for a predecisional administrative review process. These procedures present a full and fair opportunity for concerns to be raised and considered on a project-by-project basis. Individuals and groups must structure their participation so as to alert the local agency officials making particular land management decisions of their positions and contentions.

(b) Any filing for Federal judicial review of a decisions covered by this subpart is premature and inappropriate unless the plaintiff has exhausted the administrative review process set forth in this part (see 7 U.S.C. 6912(e) and 16 U.S.C. 6515(c)).

§ 218.15 Information collection requirements.

The rules of this part specify the information that objectors must provide in an objection to a proposed project (see § 218.8). As such, these rules contain information collection requirements as defined in 5 CFR part 1320. These information requirements are assigned OMB Control Number 0596–0172.

§ 218.16 Effective dates.

(a) *Effective dates for HFRA-authorized projects.* (1) Provisions of this part that are applicable to hazardous fuel reduction projects authorized under the HFRA are in effect as of March 27, 2013 for projects where scoping begins on or after this date.

(2) Hazardous fuel reduction project proposals under the HFRA for which public scoping began prior to March 27, 2013 may use the predecisional objection procedures posted at *http://www.fs.fed.us/objections.*

(3) Hazardous fuel reduction project proposals that are re-scoped with the public or re-issued for notice and comment after March 27, 2013 are subject to this part.

(b) *Effective dates for non-HFRA-authorized projects.* (1) Project proposals with public scoping completed, but that have not had legal notice published. The applicable provisions of this part are in effect as of March 27, 2013 where public scoping was previously initiated for project proposals, but legal notice of the opportunity to comment has not yet been published; unless scoping or other public notification of the project (e.g. Schedule of Proposed Actions) has clearly indicated the project to be under the former 36 CFR part 215 appeal process.

(2) Project proposals which have legal notice published, but a Decision Notice or Record of Decision has not been signed. If a Decision Notice or Record of Decision is signed within 6 months of March 27, 2013, it will be subject to the 36 CFR part 215 appeal process. If the Decision Notice or Record of Decision is to be signed more than 6 months beyond March 27, 2013, the project proposal will be subject to the requirements of this part. In this case, the responsible official will notify all interested and affected parties who participated during scoping or provided specific written comment regarding the proposed project or activity during the comment period initiated with a legal notice that the project proposal will be subject to the predecisional objection regulations at 36 CFR part 218. All interested and affected parties who provided written comment as defined in § 218.2 during scoping or the comment period will be eligible to participate in the objection process.

(3) Project proposals are subject to the requirements of this part when initial public scoping, re-scoping with the public, or re-issuance of notice and comment begins on or after March 27, 2013.

Subpart B—Provisions Specific to Project-Level Proposals Not Authorized Under Healthy Forests Restoration Act

§ 218.20 Applicability and scope.

This subpart includes provisions that are specific to proposed projects and activities implementing land and resource management plans and documented with a Record of Decision or Decision Notice, except those authorized under the Healthy Forests Restoration Act (HFRA). The sections of this subpart must be considered in combination with the general provisions of subpart A of this part for the full complement of regulatory direction pertaining to predecisional administrative review of the applicable projects and activities.

§ 218.21 Emergency situations.

(a) *Authority.* The Chief and the Associate Chief of the Forest Service are authorized to make the determination that an emergency situation exists as defined in this section.

(b) *Emergency situation definition.* A situation on National Forest System (NFS) lands for which immediate implementation of a decision is necessary to achieve one or more of the following: Relief from hazards threatening human health and safety; mitigation of threats to natural resources on NFS or adjacent lands; avoiding a loss of commodity value sufficient to jeopardize the agency's ability to accomplish project objectives directly

related to resource protection or restoration.

(c) *Determination.* The determination that an emergency situation exists shall be based on an examination of the relevant information. During the consideration by the Chief or Associate Chief, additional information may be requested from the responsible official. The determination that an emergency situation does or does not exist is not subject to administrative review under this part.

(d) *Implementation.* When it is determined that an emergency situation exists with respect to all or part of the proposed project or activity, the proposed action shall not be subject to the predecisional objection process and implementation may proceed as follows:

(1) Immediately after notification (see 36 CFR 220.7(d)) when the decision is documented in a Decision Notice (DN).

(2) Immediately after complying with the timeframes and publication requirements described in 40 CFR 1506.10(b)(2) when the decision is documented in a Record of Decision (ROD).

(e) *Notification.* The responsible official shall identify any emergency situation determination made for a project or activity in the notification of the decision (see 36 CFR 220.5(g) and 220.7(d)).

§ 218.22 Proposed projects and activities subject to legal notice and opportunity to comment.

The legal notice and opportunity to comment procedures of this subpart apply only to:

(a) Proposed projects and activities implementing land management plans for which an environmental assessment (EA) is prepared;

(b) Proposed projects and activities implementing land management plans for which a draft or supplemental environmental impact statement (EIS) is prepared and notice and comment procedures are governed by 40 CFR parts 1500 through 1508;

(c) Proposed amendments to a land management plan that are included as part of a proposed project or activity covered in paragraphs (a) or (b) of this section which are applicable only to that proposed project or activity;

(d) A proposed project or activity for which a supplemental or revised EA or EIS is prepared based on consideration of new information or changed circumstances; and

(e) Proposed research activities to be conducted on National Forest System land for which an EA or EIS is prepared.

§ 218.23 Proposed projects and activities not subject to legal notice and opportunity to comment.

The legal notice and opportunity to comment procedures of this subpart do not apply to:

(a) [Reserved];

(b) Proposed land management plans, plan revisions, and plan amendments that are subject to the objection process set out in 36 CFR part 219, subpart B;

(c) Proposed plan amendments associated with a project or activity where the amendment applies not just to the particular project or activity but to all future projects and activities (see 36 CFR 219.59(b));

(d) Proposed projects and activities not subject to the provisions of the National Environmental Policy Act and the implementing regulations at 40 CFR parts 1500 through 1508 and 36 CFR part 220;

(e) Determinations by the responsible official, after consideration of new information or changed circumstances, that a correction, supplement, or revision of the EA or EIS is not required;

(f) Rules promulgated in accordance with the Administrative Procedure Act (5 U.S.C. 551 et seq.) or policies and procedures issued in the Forest Service Manual and Handbooks (36 CFR part 216); and

(g) Proposed hazardous fuel reduction projects authorized under the Healthy Forests Restoration Act.

§ 218.24 Notification of opportunity to comment on proposed projects and activities.

(a) *Responsible official.* The responsible official shall:

(1) Provide legal notice of the opportunity to comment on a proposed project or activity implementing a land management plan.

(2) Determine the most effective timing and then publish the legal notice of the opportunity to comment as provided for in paragraph (c)(2) of this section.

(3) Promptly provide notice about the proposed project or activity to any individual or entity who has requested it and to those who have participated in planning for that project.

(4) Accept all written comments on the proposed project or activity as provided for in § 218.25(a)(4).

(b) *Content of legal notice.* All legal notices shall include the following:

(1) The title and brief description of the proposed project or activity.

(2) A general description of the proposed project or activity's location with sufficient information to allow the interested public to identify the location.

(3) When applicable, a statement that the responsible official is requesting an emergency situation determination or it has been determined that an emergency situation exists for the proposed project or activity as provided for in § 218.21.

(4) For a proposed project or activity to be analyzed and documented in an environmental assessment (EA), a statement that the opportunity to comment ends 30 days following the date of publication of the legal notice in the newspaper of record (see § 218.25(a)(2)); as newspaper publication dates may vary, legal notices shall not contain the specific date.

(5) For a proposed project or activity that is analyzed and documented in a draft environmental impact statement (EIS), a statement that the opportunity to comment ends 45 days following the date of publication of the notice of availability (NOA) in the **Federal Register** (see § 218.25(a)(2)). The legal notice must be published after the NOA and contain the NOA publication date.

(6) A statement that only those who submit timely and specific written comments regarding the proposed project or activity during a public comment period established by the responsible official are eligible to file an objection.

(7) The responsible official's name, title, telephone number, and addresses (street, postal, facsimile, and email) to whom comments are to be submitted and the responsible official's office business hours for those submitting hand-delivered comments (see § 218.25(a)(4)(ii)).

(8) A statement indicating that for objection eligibility each individual or representative from each entity submitting timely and specific written comments regarding the proposed project or activity must either sign the comments or verify identity upon request.

(9) The acceptable format(s) for electronic comments.

(10) Instructions on how to obtain additional information on the proposed project or activity.

(c) *Publication.* (1) Through notice published annually in the **Federal Register**, each Regional Forester shall advise the public of the newspaper(s) of record used for publishing legal notices required by this part.

(2) Legal notice of the opportunity to comment on a proposed project or activity shall be published in the applicable newspaper of record identified in paragraph (c)(1) of this section for each National Forest System unit. When the Chief is the responsible official, notice shall also be published in

the **Federal Register**. The publication date of the legal notice in the newspaper of record is the exclusive means for calculating the time to submit written comments on a proposed project or activity to be analyzed and documented in an EA. The publication date of the NOA in the **Federal Register** is the exclusive means for calculating the time to submit written comments on a proposed project or activity that is analyzed and documented in a draft EIS.

(3) Within 4 calendar days of the date of publication of the legal notice in the newspaper of record or, when applicable, the **Federal Register**, a digital image of the legal notice or **Federal Register** publication, or the exact text of the notice, must be made available on the Web. Such postings must clearly indicate the date the notice was published in the newspaper of record or **Federal Register**, and the name of the publication.

§ 218.25 Comments on proposed projects and activities.

(a) *Opportunity to comment.* (1) *Time period for submission of comments—*

(i) Comments on a proposed project or activity to be documented in an environmental assessment shall be accepted for 30 days beginning on the first day after the date of publication of the legal notice.

(ii) Comments on a proposed project or activity to be documented in an environmental impact statement shall be accepted for a minimum of 45 days beginning on the first day after the date of publication in the **Federal Register** of the notice of availability of the draft EIS.

(iii) *Comments.* It is the responsibility of all individuals and organizations to ensure that their comments are received in a timely manner as provided for in paragraph (a)(4) of this section.

(iv) *Extension.* The time period for the opportunity to comment on a proposed project or activity to be documented with an environmental assessment shall not be extended.

(2) *Computation of the comment period.* The time period is computed using calendar days, including Saturdays, Sundays, and Federal holidays. However, when the time period expires on a Saturday, Sunday, or Federal holiday, comments shall be accepted until the end of the next Federal working day (11:59 p.m. in the time zone of the receiving office for comments filed by electronic means such as email or facsimile).

(3) *Requirements.* To be eligible to submit an objection, individuals and entities must have provided the following during the comment period:

(i) Name and postal address. Email address in addition is recommended but not required.

(ii) Title of the proposed project or activity.

(iii) Specific written comments as defined in § 218.2 regarding the proposed project or activity, along with supporting reasons.

(iv) Signature or other verification of identity upon request and identification of the individual or entity who authored the comment(s). For comments listing multiple entities or multiple individuals, a signature or other means of verification must be provided for the individual authorized to represent each entity and for each individual in the case of multiple names. A scanned signature or other means of verifying the identity of the individual or entity representative may be used for electronically submitted comments.

(v) Individual members of an entity must submit their own comments to establish personal eligibility; comments received on behalf of an entity are considered as those of the entity only.

(4) Evidence of timely submission. When there is a question about timely submission of comments, timeliness shall be determined as follows:

(i) Written comments must be postmarked by the Postal Service, emailed, faxed, or otherwise submitted (for example, express delivery service) by 11:59 p.m. in the time zone of the receiving office on the 30th calendar day following publication of the legal notice for proposed projects or activities to be analyzed and documented in an EA or the 45th calendar day following publication of the NOA in the **Federal Register** for a draft EIS.

(ii) Hand-delivered comments must be time and date imprinted at the correct responsible official's office by the close of business on the 30th calendar day following publication of the legal notice for proposed projects or activities to be analyzed and documented in an EA or the 45th calendar day following publication of the NOA in the **Federal Register** for a draft EIS.

(iii) For emailed comments, the sender should normally receive an automated electronic acknowledgment from the agency as confirmation of receipt. If the sender does not receive an automated acknowledgment of the receipt of the comments, it is the sender's responsibility to ensure timely receipt by other means.

(b) *Consideration of comments.* (1) The responsible official shall consider all written comments submitted in compliance with paragraph (a) of this section.

(2) All written comments received by the responsible official shall be placed in the project file and shall become a matter of public record.

§ 218.26 Objection time periods.

(a) *Time to file an objection.* Written objections, including any attachments, must be filed with the reviewing officer within 45 days following the publication date of the legal notice of the EA or final EIS in the newspaper of record or the publication date of the notice in the **Federal Register** when the Chief is the responsible official (see § 218.7(c)). It is the responsibility of objectors to ensure that their objection is received in a timely manner.

(b) *Time for responding to an objection.* The reviewing officer must issue a written response to the objector(s) concerning their objection(s) within 45 days following the end of the objection filing period. The reviewing officer has the discretion to extend the time for up to 30 days when he or she determines that additional time is necessary to provide adequate response to objections or to participate in resolution discussions with the objector(s).

Subpart C—Provisions Specific to Proposed Projects Authorized Under the Healthy Forests Restoration Act

§ 218.30 Applicability and scope.

This subpart includes provisions that are specific to proposed hazardous fuel reduction projects documented with a Record of Decision or Decision Notice, and authorized under the Healthy Forests Restoration Act (HFRA). The sections of this subpart must be considered in combination with the general provisions of subpart A of this part for the full complement of regulatory direction pertaining to predecisional administrative review of the applicable projects and activities.

§ 218.31 Authorized hazardous fuel reduction projects subject to objection.

(a) Only authorized hazardous fuel reduction projects as defined by the HFRA, section 101(2), occurring on National Forest System land that have been analyzed in an EA or EIS are subject to this subpart. Authorized hazardous fuel reduction projects processed under the provisions of the HFRA are not subject to the requirements in subpart B of this part.

(b) When authorized hazardous fuel reduction projects are approved contemporaneously with a plan amendment that applies only to that project, the objection process of this subpart applies to both the plan amendment and the project.

§ 218.32 Objection time periods.

(a) *Time to file an objection.* Written objections, including any attachments, must be filed with the reviewing officer within 30 days following the publication date of the legal notice of the EA or final EIS in the newspaper of record or the publication date of the notice in the **Federal Register** when the Chief is the responsible official (see § 218.6(c)). It is the responsibility of objectors to ensure that their objection is received in a timely manner.

(b) *Time for responding to an objection.* The reviewing officer must issue a written response to the objector(s) concerning their objection(s) within 30 days following the end of the objection filing period.

Dated: March 20, 2013.

Harris D. Sherman,

Under Secretary, Natural Resources and Environment (NRE).

[FR Doc. 2013–06857 Filed 3–26–13; 8:45 am]

BILLING CODE 3410–11–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2011–0665; FRL–9381–4]

Emamectin Benzoate; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of emamectin benzoate in or on the cucurbit vegetable crop group 9. Interregional Research Project Number 4 (IR–4) requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective March 27, 2013. Objections and requests for hearings must be received on or before May 28, 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–2011–0665, 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: Andrew Ertman, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–9367; email address: *ertman.andrew@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–2011–0665 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 28, 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–2011–0665, 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 September 7, 2011 (76 FR 55329) (FRL–8886–7), 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 1E7904) by IR–4, 500 College Rd. East, Suite 201 W, Princeton, NJ 08540. The petition requested that 40 CFR 180.505 be amended by establishing tolerances for residues of the insecticide emamectin benzoate, 4′-epimethylamino-4′-deoxyavermectin B1 benzoate (a mixture of a minimum of 90% 4′-epi-methylamino-4′-deoxyavermectin B1a and a maximum of 10% 4′-epi-methlyamino-4′deoxyavermectin B1b benzoate), and its metabolites 8,9 isomer of the B1a and B1b component of the parent insecticide, in or on vegetable, cucurbit, group 9 at 0.03 parts per million (ppm). That document referenced a summary of the petition prepared by Syngenta, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has modified the level at which the tolerance is being established. The reason for this change is explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue.* * *''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for emamectin benzoate including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with emamectin benzoate 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. Emamectin acts by binding to gamma-aminobutyric acid (GABA) gated chloride channels at two different sites, a high affinity binding site that activates the channel and a low affinity site that blocks the channel. GABA plays a critical role in nervous system development through both non-synaptic and synaptic mechanisms. Consequently, emamectin may have the potential to influence GABA-mediated events important to brain development. Within the mammalian brain, a member of this class of compound (abamectin) has been shown to have widespread binding but particularly abundant in the cerebellum. Through action on the enteric nervous system and induction of longitudinal rhythmic contractions in the isolated ileum, emamectin like abamectin may therefore influence GABA-mediated regulation of metabolism, food intake and body weight at multiple sites. Although GABA receptor mediated neurotoxicity is a solid hypothesis, data in mammalian preparations linking alterations in GABA receptor function to disruptions in neuronal excitability *in vitro* and *in vivo,* and ultimately adverse outcome are currently lacking.

Integral to its mechanism of action in mammals, this class of compounds is also a substrate for (i.e., binds to) P-glycoprotein. P-glycoprotein (P-gp) is a member of the adenosine triphosphate (ATP) binding cassette transporter proteins, which reside in the plasma membrane and function as a transmembrane efflux pump, moving xenobiotics from intracellular to the extracellular domain against a steep concentration gradient with ATP-hydrolysis providing the energy for active transport. P-gp is found in the canallicular surface of hepatocytes, the apical surface of proximal tubular cells in the kidneys, brush border surface of enterocytes, luminal surface of blood capillaries of the brain (blood brain barrier), placenta, ovaries, and the testes. As an efflux transporter, P-gp acts as a protective barrier to keep xenobiotics out of the body by excreting them into bile, urine, and intestinal lumen and prevents accumulation of these compounds in the brain and gonads, as well as the fetus. Therefore, some test animals, in which genetic polymorphisms compromise P-gp expression, are particularly susceptible to abamectin or emamectin-induced neurotoxicity. An example is the CF-1 mouse. Some CF-1 mice are deficient in P-gp and are found to be highly sensitive to the neurotoxicity of abamectin. A small population of humans is also found to be deficient of ATP binding cassette (ABC) transporter proteins due to polymorphism in the gene encoding ABC transporter proteins (Dubin-Johnson Syndrome). In addition, collie dogs have been known to be deficient in P-gp.

Consistent with the mode of action, the main target organ for emamectin is the nervous system; clinical signs (tremors, ptosis, ataxia, and hunched posture) and neuropathology (neuronal degeneration in the brain and in peripheral nerves, muscle fiber degeneration) were found in most of the emamectin studies in rats, dogs and mice. The dose/response curve was very steep in several studies (most notably with CF-1 mice and dogs), with severe effects (morbid sacrifice and neuropathology) sometimes seen at the LOAELs (0.1 milligram/kilogram/day (mg/kg/day) with NOAEL of 0.075 mg/kg/day). Although no increased sensitivity was seen in developmental toxicity studies in rats and rabbits, increased qualitative and/or quantitative sensitivity of rat pups was seen in the reproductive toxicity and in the developmental neurotoxicity studies.

The carcinogenicity and mutagenicity studies provide no indication that emamectin is carcinogenic or mutagenic. Emamectin is classified as ''not likely to be carcinogenic to humans.''

The available emamectin data show that there is a difference in species sensitivity, and the data suggest the following order: Rat NOAELs/LOAELs greater than dog NOAELs/LOAELs greater than mouse NOAELs/LOAELs. The toxicity endpoints and points of departure for risk were selected from the results of the 15-day CF-1 mouse oral toxicity study.

Specific information on the studies received and the nature of the adverse effects caused by emamectin benzoate 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* on pages 43–50 of the document titled ''Emamectin Benzoate. Revised Human Health Risk Assessment for Proposed Uses on Cucurbits and Outdoor-Grown Plants in Commercial Nursery Production'' in docket ID number EPA–HQ–OPP–2011–0665.

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 emamectin benzoate used for human risk assessment is shown in Table 1 of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR EMAMECTIN BENZOATE FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment (mg/kg/day)	Study and toxicological effects
Acute dietary (All Populations)	NOAEL = 0.075 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 3x	aRfD = 0.00025 ..... aPAD = 0.00025	15-day mouse. LOAEL = 0.1 mg/kg/day based on tremors on day 3 of dosing. At the next higher dose (0.3 mg/kg/day), tremors were seen at day 2 of treatment.
Chronic dietary (All populations)	NOAEL= 0.075 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 10x	cRfD = 0.000075 ..... cPAD = 0.000075	15-day mouse. LOAEL = 0.1 mg/kg/day based on moribund sacrifices, clinical signs of neurotoxicity, decreases in body weight and food consumption and histopathological lesions in the sciatic nerve.

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. mg/kg/day = milligram/kilogram/day. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to emamectin benzoate, EPA considered exposure under the petitioned-for tolerances as well as all existing emamectin benzoate tolerances in 40 CFR 180.505. EPA assessed dietary exposures from emamectin benzoate 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 emamectin benzoate. In estimating acute dietary exposure, EPA used food consumption information from the U.S. Department of Agriculture (USDA) 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, a probabilistic acute dietary exposure assessment was conducted. The anticipated residue estimates, used for most crops, were based on field trial data. Tolerance-level residues were used for tree nuts (including pistachios) and cottonseed oil. Pesticide Data Program (PDP) monitoring data for years 2009 and 2010 were used for apples since apple juice had a significant impact on exposure. Dietary Exposure Evaluation Model (DEEM) default processing factors were used except for commodities with chemical-specific processing studies. Percent crop treated (PCT) data were used.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 2003–2008 NHANES/WWEIA. As to residue levels in food, a somewhat refined chronic dietary exposure assessment was conducted. The anticipated residue estimates, used for most crops, were single point estimates (averages) based on field trial data. Tolerance-level residues were used for tree nuts (including pistachios) and cottonseed oil. DEEM default processing factors were used except for commodities with chemical-specific processing studies. PCT data were used.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that emamectin benzoate does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and 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.

For the acute dietary assessment, the Agency estimated the PCT for existing uses as follows:

Almonds, 2.5%; apples, 20%; broccoli, 20%; cabbage, 25%;

cauliflower, 20%; celery, 40%; cotton, 2.5%; lettuce, 20%; pears, 20%; peppers, 15%; spinach, 10%; tomatoes, 20%.

For the chronic dietary assessment, the Agency estimated the PCT for existing uses as follows:

Almonds, 1%; apples, 10%; broccoli, 5%; cabbage, 10%; cauliflower, 10%; celery, 25%; cotton, 1%; lettuce, 10%; pears, 5%; peppers, 5%; spinach, 5%; tomatoes, 10%.

In most cases, EPA uses available data from USDA/National Agricultural Statistics Service (NASS), proprietary market surveys, and the National Pesticide Use Database for the chemical/crop combination for the most recent 6 to 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 1. 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 the acute dietary assessment, the Agency estimated the PCT for new uses as follows:

Cantaloupe, 51%; cucumber, 26%; squash, 46%; watermelon, 21%.

For the chronic dietary assessment, the Agency estimated the PCT for new uses as follows:

Cantaloupe, 40%; cucumber, 14%; squash, 29%; watermelon, 19%.

EPA estimates of the PCT for new uses of emamectin benzoate represent the upper bound of the use expected during the pesticide's initial 5 years of registration; that is, PCT for new uses of emamectin benzoate is a threshold of use that EPA is reasonably certain will not be exceeded for each registered use site. The PCT recommended for use in the chronic dietary assessment for new uses is calculated as the average PCT of the market leader or leaders, (i.e., the pesticide(s) with the greatest PCT) on that site over the three most recent years of available data. The PCT recommended for use in the acute dietary assessment for new uses is the maximum observed PCT over the same period. Comparisons are only made among pesticides of the same pesticide types (e.g., the market leader for insecticides on the use site is selected for comparison with a new insecticide). The market leader included in the estimation may not be the same for each year since different pesticides may dominate at different times.

Typically, EPA uses USDA/NASS as the source data because it is publicly available and directly reports values for PCT. When a specific use site is not reported by USDA/NASS, EPA uses proprietary data and calculates the PCT given reported data on acres treated and acres grown. If no data are available, EPA may extrapolate PCT for new uses from other crops, if the production area and pest spectrum are substantially similar.

A retrospective analysis to validate this approach shows few cases where the PCT for the market leaders were exceeded. Further review of these cases identified factors contributing to the exceptionally high use of a new pesticide. To evaluate whether the PCT for new uses for emamectin benzoate could be exceeded, EPA considered whether there may be unusually high pest pressure, as indicated in emergency exemption requests for emamectin benzoate; the pest spectrum of the new pesticide in comparison with the market leaders and whether the market leaders are well established for that use; and whether pest resistance issues with past market leaders provide emamectin benzoate with significant market potential. Given currently available information, EPA concludes that it is unlikely that actual PCT for emamectin benzoate will exceed the estimated PCT for new uses during the next 5 years.

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 emamectin benzoate may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for emamectin benzoate in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of emamectin benzoate. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking water concentrations (EDWCs) of emamectin benzoate for acute exposures are estimated to be between 0 and 0.465 parts per billion (ppb) for surface water and 0.00054 ppb for ground water, and for chronic exposures are estimated to be 0.150 ppb for surface water and 0.00054 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, a drinking water residue distribution based on the PRZM/EXAMS modeling was used. For chronic dietary risk assessment, the water concentration value of 0.150 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Emamectin benzoate is not registered for any specific use patterns that would result in residential exposure.

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.''

OPP's ''Guidance For Identifying Pesticide Chemicals and Other Substances that have a Common Mechanism of Toxicity'' (Ref. 1) describes the weight of the evidence approach for determining whether or not a group of pesticides share a

common mechanism of toxicity. This guidance defines mechanism of toxicity as the major steps leading to a toxic effect following interaction of a pesticide with biological targets. All steps leading to an effect do not need to be specifically understood. Rather, it is the identification of the crucial events following chemical interaction that are required in order to describe a mechanism of toxicity. For example, a mechanism of toxicity may be described by knowing the following: A chemical binds to a given biological target *in vitro,* and causes the receptor-related molecular response; *in vivo* it also leads to the molecular response and causes a number of intervening biological and morphological steps that result in an adverse effect. In this context a common mechanism of toxicity pertains to two or more pesticide chemicals or other substances that cause a common toxic effect to human health by the same, or essentially the same, sequence of major biochemical events. Hence, the underlying basis of the toxicity is the same, or essentially the same, for each chemical. In the case of the macrocyclic lactone pesticides (e.g., abamectin, emamectin, and avermectin), there is a wealth of data on the insecticidal mechanism of action for avermectin: Its insecticidal actions are mediated by interaction with the glutamate-gated chloride channels and $GABA_A$ gated chloride channels. This is presumed to be the insecticidal mechanism of action of emamectin and abamectin as well. Insecticidal mechanism of action does not indicate a common mechanism of toxicity for human health. Further, mammals lack glutamate-gated chloride channels; the toxic actions of avermectin appear to be mediated via interaction with $GABA_A$ and possibly glycine gated chloride channels. There is evidence that avermectin B_{1a} binds to $GABA_A$ receptors and activates Cl flux into neurons (Refs. 2 and 3). However, there is a paucity of data regarding the resultant alterations in cellular excitability of mammalian neurons and neural networks (i.e., changes in cellular excitability and altered network function as documented with pyrethroids), as well as *in vivo* measurements of altered excitability associated with adverse outcomes. Thus, while the downstream steps leading to toxicity via disruption of $GABA_A$ receptor function for avermectin can be postulated, experimental data supporting these actions are lacking. In addition, specific data demonstrating $GABA_A$ receptor interaction in mammalian preparations are lacking for abamectin and emamectin. Moreover, the specificity of such interaction on the adverse outcome would need to be shown experimentally. $GABA_A$ receptors have multiple binding sites which have been proposed to relate to adverse outcomes. For example, Dawson et al. (Ref. 4) showed for a group of avermectin-like compounds that rank order for anticonvulsant activity did not parallel the rank order for affinity at the [3H]ivermectin site. The authors hypothesized that these findings may be related to differential affinity or efficacy at subtypes of the $GABA_A$ receptor. Other reports have indicated species differences in abamectin effects on $GABA_A$ receptor function in the mouse as compared to the rat (Ref. 5).

In conclusion, although $GABA_A$ receptor mediated neurotoxicity may be a common mechanism endpoint for the macrocyclic lactone pesticides, data demonstrating the interactions of emamectin and abamectin with mammalian $GABA_A$ receptors are not available, and data in mammalian preparations linking alterations in $GABA_A$ receptor function to disruptions in neuronal excitability *in vitro* and *in vivo,* and ultimately adverse outcome, are also currently lacking for this class of compounds. In the absence of such data, the key biological steps leading to the adverse outcome (i.e., the mammalian mechanism of action) cannot be established and by extension a common mechanism of toxicity cannot be established.

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.* Although no increased sensitivity was seen in developmental toxicity studies in rats and rabbits, increased qualitative and/or quantitative sensitivity of rat pups was seen in the reproductive toxicity study and in the developmental neurotoxicity study. In the reproduction study, whole body tremors, hind limb extension, and hind limb splay were seen in the F_1 and F_2 pups while these clinical signs were not seen in F_0 parental animals at similar dose levels. In addition, a greater incidence of decreased fertility was seen in the F_1 parental females than in the F_0 females. In the developmental neurotoxicity study, no maternal effect was seen at the highest dose tested whereas dose-related decrease in open-field motor activity was seen in the mid-dose in pups on postnatal day 17. Body tremors, hind-limb extension, and auditory startle were also found in the high dose pups.

3. *Conclusion.* Based on currently available data, EPA is retaining the 10X FQPA safety factor for chronic assessments and is using a 3X FQPA safety factor for acute assessments. This decision is based on the following findings:

i. *Completeness of the toxicity database.* The toxicology database used to assess prenatal and postnatal exposure to emamectin contains all required studies with exception of an immunotoxicity study and a subchronic inhalation toxicity study, which are data gaps.

The Agency evaluated subchronic, chronic, carcinogenicity, developmental and reproduction studies as well as acute and subchronic neurotoxicity studies for any effects that might indicate that emamectin induced changes in the organs generally associated with immunological toxicity. In the studies evaluated, only the 14-week oral toxicity study in dogs showed an increase in the incidence of thymus atrophy at 1 mg/kg/day. In the 1-year feeding study in dogs, thymus atrophy was not reported at similar dose levels tested. Currently, the point of departure for risk assessment is 0.075 mg/kg/day, which is more than 10 times less than the dose where thymus atrophy had been reported. Therefore, since the acute and chronic RfD's are 0.00025 mg/kg/day and 0.000075 mg/kg/day, respectively, the Agency does not believe an immunotoxicity study will result in a lower point of departure (POD) than that which is currently in use for overall risk assessment. As such, a database uncertainty factor is not necessary to account for the lack of an immunotoxicity study.

In regards to the inhalation toxicity study, there are currently no residential uses registered for emamectin benzoate, and therefore, lack of this study does

not impact the Agency's assessment of prenatal and postnatal exposure.

Another completeness issue with regard to the toxicity database is that EPA is using a short-term study for long-term risk assessment. The data submitted show that CF–1 mice, which lack glycoprotein, are the most sensitive species/strand of animal tested. EPA only has data on CF–1 mice in short-term studies. Longer-term studies used CD–1 mice. Hence a short-term study in CF–1 mice was used to choose the chronic Point of Departure. The extrapolation from a short-term study in CF–1 mice to a long-term POD introduces additional uncertainty into the risk assessment process.

ii. *Potential prenatal and postnatal toxicity.* Although no increased sensitivity was seen in developmental toxicity studies in rats and rabbits, increased qualitative and/or quantitative sensitivity of rat pups was seen in the reproductive toxicity study and in the developmental neurotoxicity study. A degree-of-concern analysis was conducted to determine whether or not an additional safety factor is needed to account for the increased susceptibility in pups; it was concluded that the degree-of-concern was low for both 2-generation reproduction and developmental neurotoxicity studies. The reasons are as follows:

For the 2-generation reproduction study, (1) there was a clear NOAEL for the offspring toxicity, and (2) the decreased fertility seen in F_1 adults might have been due to histopathological lesions in the brain and central nervous system (seen in both F_0 and F_1 generations), rather than due to a direct effect on the reproductive system.

For the developmental neurotoxicity study, (1) although multiple offspring effects (including decreased pup body weight, head and body tremors, hindlimb extension and splay, changes in motor activity and auditory startle) were seen at the highest dose, and no maternal effects were seen at any dose, there was a clear NOAEL for offspring toxicity at the low dose, and (2) the offspring LOAEL (at the mid dose) is based on a single effect seen on only one day (decreased motor activity on postnatal day 17) and no other offspring toxicity was seen at the LOAEL.

Two other considerations raise residual concerns about whether the traditional safety factors are protective of potential prenatal and postnatal toxicity. First, the steepness of the dose-response curve means that there is a small margin of error provided by reliance on the study NOAEL. Second, the severity of effects at the LOAEL (death and neuropathology), exacerbate the concern raised by the steep dose response curve.

iii. *The completeness of the exposure database.* The assessment for food incorporates somewhat refined anticipated residue estimates for most commodities that were derived from field trial data and PCT. The availability and use of monitoring data and food preparation-reduction factors for washing, cooking, etc. may have resulted in a more refined estimate of dietary exposure. Therefore, exposures to residues in food are not expected to be exceeded.

The dietary drinking water assessment utilizes water concentration values generated by model and associated modeling parameters which are designed to provide conservative, health protective, high-end estimates of water concentrations which will not likely be exceeded.

Taking all of these findings into account, EPA has concluded that there are not reliable data supporting lowering of the default 10X FQPA safety factor for chronic exposures. Specifically, EPA does not have reliable data showing that infants and children will be adequately protected using the traditional inter- and intra-species safety factors due to the steepness of the dose-response curve, the severity of effects at the LOAEL (death and neuropathology), and the use of a short-term study for long-term risk assessment. The Agency did not use a chronic study for the POD because the chronic studies were conducted in rats, dogs, and CD–1 mice.

Taking all of these findings into account, for acute exposures, EPA has concluded that there are reliable data supporting lowering the default 10X FQPA safety factor to 3X. Although the steepness of the dose-response curve and the severity of the effects at the LOAEL introduce uncertainty with regard to whether the inter- and intra-species safety factors are protective of infants and children from acute effects, EPA has concluded that use of the 15-day neurotoxicity CF–1 mouse study provides reliable data to reduce the FQPA safety factor for acute assessments from 10X to 3X. The Agency determined that a 3X FQPA Safety Factor is adequate for assessing acute dietary risk based on the following weight of evidence considerations:

- An endpoint of concern attributable to a single exposure was not identified for *in utero* effects since there was no concern for developmental toxicity and there was no indication of increased susceptibility (qualitative or quantitative) of rat or rabbit fetuses to *in utero* exposure to emamectin;
- Although there was evidence of increased susceptibility in the DNT study, an endpoint of concern was not identified for acute dietary risk assessment for prenatal exposures because the adverse effect at the LOAEL (i.e., decrease in open field motor activity) was seen only on postnatal day 17 and not seen after a single exposure;
- The POD selected for acute dietary risk assessment is a NOAEL (with a clear LOAEL) seen after repeated dosing but is used for assessing acute risk (i.e., a very conservative approach).

Therefore, the Agency is confident that the retention of a 3X FQPA Safety Factor (to account for the steepness of the dose response curve) will not underestimate risk and provides reasonable certainty of no harm from exposure to emamectin benzoate.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and drinking water to emamectin benzoate will occupy 60% of the aPAD for children 1–2 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to emamectin benzoate from food and water will utilize 16% of the cPAD for all infants less than 1 year old, the population group receiving the greatest exposure. There are no residential uses for emamectin benzoate.

3. *Short-term risk.* Short- and intermediate-term aggregate exposure takes into account short- and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Both short- and intermediate-term adverse effects were identified; however, emamectin benzoate is not registered for any use patterns that would result in either short- or intermediate-term residential exposure.

Short- and intermediate-term risk is assessed based on short- and intermediate-term residential exposure plus chronic dietary exposure. Because there is no short- or intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess short- or intermediate-term risk), no further assessment of short- or intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating short- and intermediate-term risk for emamectin benzoate.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, emamectin benzoate is not expected to pose a cancer risk to humans.

5. *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 emamectin benzoate residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (high performance liquid chromatography with fluorescence detection (HPLC/FLD)) is available to enforce the tolerance expression.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for emamectin benzoate on cucurbits.

C. Revisions to Petitioned-For Tolerances

Based on the review of the residue data submitted with the petition, the proposed tolerance level of 0.03 ppm is being modified to 0.02 ppm.

Also, EPA has revised the tolerance expression to clarify (1) that, as provided in FFDCA section 408(a)(3), the tolerance covers metabolites and degradates of emamectin benzoate 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, a tolerance is established for residues of emamectin, including its metabolites and degradates, in or on the cucurbit vegetable group 9 at 0.02 ppm. Compliance with the tolerance levels specified is to be determined by measuring only the sum of emamectin (a mixture of a minimum of 90% 4′-epi-methylamino-4′-deoxyavermectin B_{1a} and maximum of 10% 4′-epi-methylamino-4′-deoxyavermectin B_{1b}) and its metabolites 8,9-isomer of the B_{1a} and B_{1b} component of the parent (8,9-ZMA), or 4′-deoxy-4′-epi-amino-avermectin B_{1a} and 4′-deoxy-4′-epi-amino-avermectin B_{1b}; 4′-deoxy-4′-epi-amino avermectin B_{1a} (AB_{1a}); 4′-deoxy-4′-epi-(*N*-formyl-*N*-methyl)amino-avermectin (MFB_{1a}); and 4′-deoxy-4′-epi-(*N*-formyl)amino-avermectin B_{1a} (FAB_{1a}), calculated as the stoichiometric equivalent of emamectin.

VI. References

The following literature was referenced in the preamble of this document.

1. OPP's ''Guidance for Identifying Pesticide Chemicals and Other Substances that have a Common Mechanism of Toxicity'' (USEPA, 1999); *http://www.epa.gov/fedrgstr/EPA-PEST/1999/February/Day-05/6055.pdf.*
2. balis IM, Eldefrawi AT, Eldefrawi ME. Actions of avermectin B_{1a} on the gamma-aminobutyric acidA receptor and chloride channels in rat brain. *Journal of Biochemical Toxicology.* 1986 Mar;1(1):69–82.
3. Huang J, Casida JE. (1997) Avermectin B_{1a} binds to high- and low-affinity sites with dual effects on the gama-aminobutyric acid-gated chloride channel of cultured cerebellar granule neurons. *Journal of Pharmacology and Experimental Therapeutics.* 281: 261–266.
4. Dawson GR, Wafford KA, Smith A, Marshall GR, Bayley PJ, Schaeffer JM, Meinke PT, McKernan RM. (2000) Anticonvulsant and adverse effects of avermectin analogs in mice are mediated through the gama-aminobutyric acid (A) receptor. *Journal of Pharmacology and Experimental Therapeutics* 295: 1051–1060.
5. Soderlund DM, Adams PM, Bloomquist JR. Differences in the action of avermectin B_{1a} on the $GABA_A$ receptor complex of mouse and rat. *Biochemical Biophysical Research Communications.* 1987 Jul 31;146(2):692–8.

VII. 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 19, 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. § 180.505, is amended by:

■ i. Revise paragraph (a)(1) introductory text and paragraph (a)(2) introductory text;

■ ii. Add alphabetically an entry for ''Vegetable, cucurbit, group 9'' to the table in paragraph (a)(1).

The added and revised text read as follows:

§ 180.505 Emamectin; tolerances for residues.

(a) *General.* (1) Tolerances are established for emamectin, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only the sum of emamectin (a mixture of a minimum of 90% 4′-epi-methylamino-4′-deoxyavermectin B_{1a} and maximum of 10% 4′-epi-methylamino-4′-deoxyavermectin B_{1b}) and its metabolites 8,9-isomer of the B_{1a} and B_{1b} component of the parent (8,9-ZMA), or 4′-deoxy-4′-epi-amino-avermectin B_{1a} and 4'-deoxy-4'-epi-amino-avermectin B_{1b}; 4′-deoxy-4′-epi-amino avermectin B_{1a} (AB_{1a}); 4′-deoxy-4′-epi-(*N*-formyl-*N*-methyl)amino-avermectin (MFB_{1a}); and 4′-deoxy-4′-epi-(*N*-formyl)amino-avermectin B_{1a} (FAB_{1a}), calculated as the stoichiometric equivalent of emamectin.

Commodity	Parts per million
* * * * *	
Vegetable, cucurbit, group 9	0.02
* * * * *	

(2) Tolerances are established for emamectin, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only the sum of emamectin (MAB_{1a} + MAB_{1b} isomers) and the associated 8,9-Z isomers (8,9-$_{1a}$ and 8,9-ZB_{1b}).

* * * * *

[FR Doc. 2013–06758 Filed 3–26–13; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0488; FRL–9377–3]

Thiamethoxam; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of the insecticide thiamethoxam in or on tea, and amends the existing tolerance for residues of thiamethoxam in or on coffee. Syngenta Crop Protection, Inc., requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective March 27, 2013. Objections and requests for hearings must be received on or before May 28, 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–2012–0488, 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: Julie Chao, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8735; email address: *chao.julie@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 Web 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–2012–0488 in the subject line on the first Web 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 28, 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–2012–0488, 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 August 22, 2012 (77 FR 50661) (FRL–9358–9), 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 2E8036) by Syngenta Crop Protection, Inc.; P.O. Box 18300; Greensboro, NC 27419. The petition requested that 40 CFR 180.565 be amended by increasing the tolerance for residues of the insecticide thiamethoxam, (3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-N-nitro-4 H -1,3,5-oxadiazin-4-imine) and its metabolite CGA–322704 [N-(2-chloro-thiazol-5-ylmethyl)-N'-methyl-N'-nitro-guanidine], in or on coffee from 0.05 parts per million (ppm) to 0.2 ppm. That document referenced a summary of the petition prepared by Syngenta Crop Protection, Inc., the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

In the **Federal Register** of December 19, 2012 (77 FR 75082) (FRL–9372–6), 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 2E8011) by Syngenta Crop Protection, Inc.; P.O. Box 18300; Greensboro, NC 27419. The petition requested that 40 CFR 180.565 be amended by establishing a tolerance for residues of the insecticide thiamethoxam, (3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-N-nitro-4 H–1,3,5-oxadiazin-4-imine) and its metabolite CGA–322704 [N-(2-chloro-thiazol-5-ylmethyl)-N'-methyl-N'-nitro-guanidine], in or on tea at 20 ppm. That document referenced a summary of the petition prepared by Syngenta Crop Protection, Inc., the registrant, which is available in the docket, *http://www.regulations.gov.* The notice of filing mistakenly referenced PP 2E8011. The correct petition number is PP 2E8100. There were no comments received in response to the notice of filing.

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 thiamethoxam including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with thiamethoxam 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.

Thiamethoxam shows toxicological effects primarily in the liver, kidney, testes, and hematopoietic system. In addition, developmental neurological effects were observed in rats. This developmental effect is being used to assess risks associated with acute exposures to thiamethoxam, and the liver and testicular effects are the basis for assessing longer term exposures. Although thiamethoxam causes liver tumors in mice, the Agency has classified thiamethoxam as ''not likely to be carcinogenic to humans'' based on convincing evidence that a non-genotoxic mode of action for liver tumors was established in the mouse and that the carcinogenic effects are a result of a mode of action dependent on sufficient amounts of a hepatotoxic metabolite produced persistently in the mouse. The non-cancer (chronic) assessment is sufficiently protective of the key events (perturbation of liver metabolism, hepatotoxicity/regenerative proliferation) in the animal mode of action for cancer.

Specific information on the studies received and the nature of the adverse effects caused by thiamethoxam 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 Section 4.5.1 of the documents ''Thiamethoxam. Human Health Risk Assessment for the Higher Tolerance, Use of New Formulations, and Increased Maximum Seasonal Application Rate on Imported Coffee Beans, and Condition-of-Registration Data for Leafy Vegetables (Group 4),'' in docket ID number EPA–HQ–OPP–2012–0488, and ''Thiamethoxam. Human Health Risk Assessment for Residues on

Imported Tea Leaves (Dried),'' in docket ID number EPA–HQ–OPP–2012–0858.

Thiamethoxam produces a metabolite known as CGA–322704 (referred to in the remainder of this rule as clothianidin). Clothianidin is also registered as a pesticide. While some of the toxic effects observed following testing with thiamethoxam and clothianidin are similar, the available information indicates that thiamethoxam and clothianidin have different toxicological effects in mammals and should be assessed separately. A separate risk assessment of clothianidin, which takes into account contributions from thiamethoxam, has been completed in conjunction with the registration of clothianidin. The most recent assessment, which provides details regarding the toxicology of clothianidin, is available in the docket EPA–HQ–OPP–2011–0860, at *http://www.regulations.gov.* Refer to the document ''Clothianidin—Aggregate Human Health Risk Assessment of New Uses on Strawberry, Pistachio, and Citrus; New Tolerance for Tea; and Revised PHI and Tolerance for Pepper and Eggplant (Crop Subgroup 8–10B).''

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 thiamethoxam used for human risk assessment is discussed in Unit III.B of the final rule published in the **Federal Register** of March 2, 2012 (77 FR 12731) (FRL–9331–8).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to thiamethoxam, EPA considered exposure under the petitioned-for tolerances as well as all existing thiamethoxam tolerances in 40 CFR 180.565. EPA assessed dietary exposures from thiamethoxam in food as follows:

For both acute and chronic exposure assessments for thiamethoxam, EPA combined residues of clothianidin coming from thiamethoxam with residues of thiamethoxam *per se.* As discussed in the previous unit, thiamethoxam's major metabolite is CGA–322704, which is also the registered active ingredient clothianidin. Available information indicates that thiamethoxam and clothianidin have different toxicological effects in mammals and should be assessed separately; however, these exposure assessments for this action incorporated the total residue of thiamethoxam and clothianidin from use of thiamethoxam because the total residue for each commodity for which thiamethoxam has a tolerance has not been separated between thiamethoxam and its clothianidin metabolite. The combining of these residues, as was done in this assessment, results in highly conservative estimates of dietary exposure and risk.

A separate assessment was done for clothianidin. The clothianidin assessment included clothianidin residues from use of clothianidin as a pesticide or clothianidin residues from use of thiamethoxam on those commodities for which the pesticide clothianidin does not have a tolerance. The two sources of clothianidin were not combined for a given commodity because (1) residues of clothianidin are greater from clothianidin use than from thiamethoxam use; and (2) it was assumed that 100% of crops are treated.

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 thiamethoxam. In estimating acute dietary exposure, EPA used food consumption information from the U.S. Department of Agriculture's National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). This dietary survey was conducted from 2003 to 2008. As to residue levels in food, EPA assumed tolerance level residues of thiamethoxam and clothianidin. It was further assumed that 100% of crops with registered or requested uses of thiamethoxam and 100% of crops with registered or requested uses of clothianidin were treated.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the U.S. Department of Agriculture's National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). This dietary survey was conducted from 2003 to 2008. As to residue levels in food, EPA assumed tolerance level and/or anticipated residues (averages) from field trial data. It was again assumed that 100% of crops with registered or requested uses of thiamethoxam and 100% of crops with registered or requested uses of clothianidin were treated. A complete listing of the inputs used in these assessments can be found in the following documents: ''Thiamethoxam. Acute and Chronic Aggregate Dietary (Food and Drinking Water) Exposure and Risk Assessments for the Use of Thiamethoxam on Imported Coffee Beans and Condition-of-Registration Residue Data for Leaf Lettuce,'' available in the docket EPA–HQ–OPP–2012–0488; ''Thiamethoxam. Acute and Chronic Aggregate Dietary (Food and Drinking Water) Exposure and Risk Assessments for Residues of Thiamethoxam on Imported Tea,'' available in the docket EPA–HQ–OPP–2012–0858; and ''Clothianidin—Aggregate Human Health Risk Assessment of New Uses on Strawberry, Pistachio, and Citrus; New Tolerance for Tea; and Revised PHI and Tolerance for Pepper and Eggplant (Crop Subgroup 8–10B),'' available in the docket EPA–HQ–OPP–2011–0860, at *http://www.regulations.gov.*

iii. *Cancer.* EPA concluded that thiamethoxam is ''not likely to be carcinogenic to humans'' based on convincing evidence that a non-genotoxic mode of action for liver tumors was established in the mouse, and that the carcinogenic effects are a result of a mode of action dependent on sufficient amounts of a hepatotoxic metabolite produced persistently in the mouse. The non-cancer (chronic) assessment is sufficiently protective of the key events (perturbation of liver metabolism, hepatotoxicity/regenerative proliferation) in the animal mode of action for cancer and thus a separate exposure assessment pertaining to

cancer risk is not necessary. Because clothianidin is not expected to pose a cancer risk, a quantitative dietary exposure assessment for the purposes of assessing cancer risk was not conducted.

iv. *Anticipated residue and percent crop treated (PCT) information.* Tolerance level residues or anticipated residues (average) from the field trial data were used for the chronic assessment for thiamethoxam. It was assumed that 100% of crops were treated for all food commodities in both the acute and chronic analyses.

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.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for thiamethoxam in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of thiamethoxam. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Tier 1 Rice Model for surface water and the Screening Concentration in Ground Water (SCI–GROW) model for ground water, the estimated drinking water concentrations (EDWCs) of thiamethoxam for acute exposures are estimated to be 0.13177 ppm for surface water and 0.00466 ppm for ground water. The chronic concentrations for surface water and ground water are estimated to be 0.01131 ppm and 0.00466 ppm, respectively. Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. Since clothianidin is not a significant degradate of thiamethoxam in surface water or ground water sources of drinking water, it was not included in the EDWCs for the thiamethoxam dietary assessment. For the clothianidin assessments, the EDWC value of 0.072 ppm for clothianidin was incorporated into the acute and chronic dietary assessments. A complete listing of the inputs used in these assessments can be found in the following documents: ''Thiamethoxam. Acute and Chronic Aggregate Dietary (Food and Drinking Water) Exposure and Risk Assessments for the Use of Thiamethoxam on Imported Coffee Beans and Condition-of-Registration Residue Data for Leaf Lettuce,'' available in the docket EPA–HQ–OPP–2012–0488; ''Thiamethoxam. Acute and Chronic Aggregate Dietary (Food and Drinking Water) Exposure and Risk Assessments for Residues of Thiamethoxam on Imported Tea,'' available in the docket EPA–HQ–OPP–2012–0858; and ''Clothianidin—Aggregate Human Health Risk Assessment of New Uses on Strawberry, Pistachio, and Citrus; New Tolerance for Tea; and Revised PHI and Tolerance for Pepper and Eggplant (Crop Subgroup 8–10B),'' available in the docket EPA–HQ–OPP–2011–0860, at *http://www.regulations.gov.*

The registrant has conducted small-scale prospective ground water studies in several locations in the United States to investigate the mobility of thiamethoxam in a vulnerable hydrogeological setting. A review of those data show that generally, residues of thiamethoxam, as well as clothianidin, are below the limit of quantification (0.05 ppb). When quantifiable residues are found, they are sporadic and at low levels. The maximum observed residue levels from any monitoring well were 1.0 ppb for thiamethoxam and 0.73 ppb for clothianidin. These values are well below the modeled estimates summarized in this unit, indicating that the modeled estimates are, in fact, protective of what actual exposures are likely to be.

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).

Thiamethoxam is currently registered for the following uses that could result in residential exposures: Turfgrass on golf courses, residential lawns, commercial grounds, parks, playgrounds, athletic fields, landscapes, interiorscapes, sod farms, and indoor crack and crevice or spot treatments to control insects in residential settings. EPA assessed residential exposures for those making applications in residential settings as well as for those entering areas previously treated with thiamethoxam. Exposures are expected to be short-term (i.e., up to 30 days) in duration.

Adults were assessed for potential short-term dermal and inhalation handler exposure from applying thiamethoxam to turf/lawns and from indoor crack and crevice/spot treatment applications. Short-term postapplication exposures (1 to 30 days of continuous exposure) may also occur as a result of activities on treated turf or entering indoor areas previously treated with a thiamethoxam indoor crack and crevice product. EPA combined non-dietary routes of children's post application exposure to obtain an estimate of potential combined exposure. These scenarios consisted of dermal postapplication exposure and oral (hand-to-mouth) exposures for children 1 to < 2 years of age. A complete listing of the inputs used in these assessments can be found in the document ''Thiamethoxam: Revised Residential Exposure Assessment to Support an Amended Import Tolerance for Coffee,'' in docket ID number EPA–HQ–OPP–2012–0488 at *http://www.regulations.gov.*

Clothianidin is currently registered for the following uses that could result in residential exposures: turf, ornamental plants, and/or indoor use to control bed bugs. EPA assessed residential exposure using the following assumptions: exposures may occur during application of products containing clothianidin (handler exposure) as well as following application (post-application exposure) and are expected to be of short-term (1–30 days) duration.

Adults were assessed for potential short-term dermal and inhalation handler exposure from applying clothianidin to residential turf/home lawns and for short-term post-application dermal exposure from contact with treated residential and recreational turf home lawns and golf courses. There is also potential for post-application dermal and inhalation exposure for adults and children resulting from use of clothianidin on residential turf, ornamentals (i.e., trees), and indoor use to control bed bugs. There is also potential for incidental oral post-application exposure for children. Although there is potential for adult exposure resulting from both applying the product and post application activities, the Agency did not combine exposure estimates from adult handler and post application activities because of the conservative assumptions and inputs within each exposure scenario. The children's

combined exposure includes only the hand-to-mouth exposure for the incidental oral exposure component. To include exposure from object-to-mouth and soil ingestion in addition to hand-to-mouth would overestimate incidental oral exposures for purposes of estimating combined residential exposure. Further, because the level of concern for dermal exposures (MOEs less than 100) and inhalation exposure (MOEs less than 1000) are different, a total aggregate risk index (ARI) approach was used instead of the MOE approach. ARIs of greater than 1 indicate risks are not of concern.

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.''

Thiamethoxam is a member of the neonicotinoid class of pesticides and produces, as a metabolite, another neonicotinoid, clothianidin. Structural similarities or common effects do not constitute a common mechanism of toxicity. Evidence is needed to establish that the chemicals operate by the same, or essentially the same sequence of major biochemical events. Although clothianidin and thiamethoxam bind selectively to insect nicotinic acetylcholine receptors (nAChR), the specific binding site(s)/receptor(s) for clothianidin, thiamethoxam, and the other neonicotinoids are unknown at this time. Additionally, the commonality of the binding activity itself is uncertain, as preliminary evidence suggests that clothianidin operates by direct competitive inhibition, while thiamethoxam is a non-competitive inhibitor. Furthermore, even if future research shows that neonicotinoids share a common binding activity to a specific site on insect nicotinic acetylcholine receptors, there is not necessarily a relationship between this pesticidal action and a mechanism of toxicity in mammals. Structural variations between the insect and mammalian nAChRs produce quantitative differences in the binding affinity of the neonicotinoids towards these receptors, which, in turn, confers the notably greater selective toxicity of this class towards insects, including aphids and leafhoppers, compared to mammals. While the insecticidal action of the neonicotinoids is neurotoxic, the most sensitive regulatory endpoint for thiamethoxam is based on unrelated effects in mammals, including effects on the liver, kidney, testes, and hematopoietic system. Additionally, the most sensitive toxicological effect in mammals differs across the neonicotinoids (e.g., testicular tubular atrophy with thiamethoxam; mineralized particles in thyroid colloid with imidacloprid). Thus, EPA has not found thiamethoxam or clothianidin to share a common mechanism of toxicity with any other substances. For the purposes of this tolerance action, therefore, EPA has assumed that thiamethoxam and clothianidin do 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.* In the developmental studies, there is no evidence of increased quantitative or qualitative susceptibility of rat or rabbit fetuses to *in utero* exposure to thiamethoxam. The developmental NOAELs are either higher than or equal to the maternal NOAELs. The toxicological effects in fetuses do not appear to be any more severe than those in the dams or does. In the rat developmental neurotoxicity study, there was no quantitative evidence of increased susceptibility; however, there was increased qualitative susceptibility because the effects in the pups (reduced brain weight and significant changes in brain morphometric measurements) were considered to be more severe than findings in the dams (decreased body weight gain and food consumption). There is evidence of increased quantitative susceptibility for male pups in both 2-generation reproductive studies. In one study, there are no toxicological effects in the dams; whereas, for the pups, reduced bodyweights are observed at the highest dose level, starting on day 14 of lactation. This contributes to an overall decrease in bodyweight gain during the entire lactation period. The reproductive effects in males appear in the F_1 generation in the form of increased incidence and severity of testicular tubular atrophy. These data are considered to be evidence of increased quantitative susceptibility for male pups (increased incidence of testicular tubular atrophy at 1.8 milligrams/kilogram/day (mg/kg/day) when compared to the parents (hyaline changes in renal tubules at 61 mg/kg/day; NOAEL is 1.8 mg/kg/day). In a more recent 2-generation reproduction study, the most sensitive effect was sperm abnormalities at 3 mg/kg/day (the NOAEL is 1.2 mg/kg/day) in the F_1 males. This study also indicates increased susceptibility for the offspring for this effect. Although there is evidence of increased quantitative susceptibility for male pups in both reproductive studies, NOAELs and LOAELs were established in these studies and the Agency selected the NOAEL for testicular effects in F_1 pups as the basis for risk assessment. The Agency has confidence that the NOAEL selected for risk assessment is protective of the most sensitive effect (testicular) for the most sensitive subgroup (pups) observed in the toxicological database.

3. *Conclusion.* i. In the final rule published in the **Federal Register** of January 5, 2005 (70 FR 708) (FRL–7689–7), EPA had previously determined that the FQPA SF should be retained at 10X for thiamethoxam, based on the following factors: Effects on endocrine organs observed across species; significant decrease in alanine amino transferase levels in companion animal studies and in dog studies; the mode of action of this chemical in insects (interferes with the nicotinic acetylcholine receptors of the insect's nervous system); the transient clinical signs of neurotoxicity in several studies across species; and the suggestive evidence of increased quantitative susceptibility in the rat reproduction study. Since that determination, EPA has received and reviewed a developmental neurotoxicity (DNT) study in rats, and an additional reproduction study in rats. Taking the

results of these studies into account, as well as the rest of the data on thiamethoxam, EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X (June 23, 2010, 75 FR 35653; FRL–8830–4); (June 22, 2007, 72 FR 34401). That decision is based on the following findings:

a. The toxicity database for thiamethoxam is largely complete, including acceptable/guideline developmental toxicity, 2-generation reproduction, DNT, and immunotoxicity studies. The available data for thiamethoxam show the potential for immunotoxic effects. In the subchronic dog study, leukopenia (decreased white blood cells) was observed in females only, at the highest dose tested (HDT) of 50 mg/kg/day; the NOAEL for this effect was 34 mg/kg/day. The overall study NOAEL was 9.3 mg/kg/day in females (8.2 mg/kg/day in males) based on hematology and other clinical chemistry findings at the LOAEL of 34 mg/kg/day (32 mg/kg/day in males). In the subchronic mouse study, decreased spleen weights were observed in females at 626 mg/kg/day; the NOAEL for this effect was the next lowest dose of 231 mg/kg/day. The overall study NOAEL was 1.4 mg/kg/day (males) based on increased hepatocyte hypertrophy observed at the LOAEL of 14.3 mg/kg/day. The decreased absolute spleen weights were considered to be treatment related, but were not statistically significant at 626 mg/kg/day or at the HDT of 1,163 mg/kg/day. Since spleen weights were not decreased relative to body weights, the absolute decreases may have been related to the decreases in body weight gain observed at higher doses. Overall, the Agency has a low concern for the potential for immunotoxicity related to these effects for the following reasons: In general, the Agency does not consider alterations in hematology parameters alone to be a significant indication of potential immunotoxicity. In the case of thiamethoxam, high-dose females in the subchronic dog study had slight microcytic anemia as well as leukopenia characterized by reductions in neutrophils, lymphocytes and monocytes; the leukopenia was considered to be related to the anemic response to exposure. Further, endpoints and doses selected for risk assessment are protective of the observed effects on hematology. Spleen weight decreases, while considered treatment-related, were associated with decreases in body weight gain, and were not statistically significant. In addition, spleen weight changes occurred only at very high doses, more than 70 times higher than the doses selected for risk assessment. In addition to the previous considerations, a 28-day immunotoxicity study in female mice was recently received and has undergone a preliminary review. There were no immunotoxic effects observed at doses exceeding the limit dose of 1,000 mg/kg/day.

b. For the reasons discussed in Unit III.D.2., there is low concern for an increased susceptibility in the young.

c. Although there is evidence of neurotoxicity after acute exposure to thiamethoxam at doses of 500 mg/kg/day including drooped palpebral closure, decrease in rectal temperature and locomotor activity and increase in forelimb grip strength, no evidence of neuropathology was observed. These effects occurred at doses at least 14-fold and 416-fold higher than the doses used for the acute, and chronic risk assessments, respectively; thus, there is low concern for these effects since it is expected that the doses used for regulatory purposes would be protective of the effects noted at much higher doses. In the developmental neurotoxicity study (DNT), there was no evidence of neurotoxicity in the dams exposed up to 298.7 mg/kg/day; a dose that was associated with decreases in body weight gain and food consumption. In pups exposed to 298.7 mg/kg/day, there were significant reductions in absolute brain weight and size (i.e., length and width of the cerebellum was less in males on day 12, and there were significant decreases in Level 3–5 measurements in males and in Level 4–5 measurements in females on day 63). However, there is low concern for this increased qualitative susceptibility observed in the DNT study because the doses and endpoints selected for risk assessment are protective of the effects in the offspring. As noted previously, for risk assessment the Agency selected the NOAEL for testicular effects in F_1 pups based on two reproductive toxicity studies to be protective of all sensitive subpopulations.

d. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed using tolerance-level and/or anticipated residues that are based on reliable field trial data observed in the thiamethoxam field trials. Although there is available information indicating that thiamethoxam and clothianidin have different toxicological effects in mammals and should be assessed separately, the residues of each have been combined in these assessments to ensure that the estimated exposures of thiamethoxam do not underestimate actual potential thiamethoxam exposures. An assumption of 100 percent crop treated (PCT) was made for all foods evaluated in the assessments. For the acute and chronic assessments, the EDWCs of 131.77 parts per billion (ppb) and 11.3 ppb, respectively, were used to estimate exposure via drinking water. Compared to the results from small scale prospective ground water studies where the maximum observed residue levels from any monitoring well were 1.0 ppb for thiamethoxam and 0.73 ppb for clothianidin, the modeled estimates are protective of what actual exposures are likely to be. EPA used similarly conservative (protective) assumptions to assess postapplication exposure to children and adults including incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by thiamethoxam.

ii. In the final rule published in the **Federal Register** of February 6, 2008 (73 FR 6851) (FRL–8346–9), EPA had previously determined that the FQPA SF for clothianidin should be retained at 10X because EPA had required the submission of a developmental immunotoxicity study to address the combination of evidence of decreased absolute and adjusted organ weights of the thymus and spleen in multiple studies in the clothianidin database, and evidence showing that juvenile rats in the 2-generation reproduction study appear to be more susceptible to these potential immunotoxic effects. In the absence of a developmental immunotoxicity study, EPA concluded that there was sufficient uncertainty regarding immunotoxic effects in the young that the 10X FQPA factor should be retained as a database uncertainty factor. Since that determination, EPA has received and reviewed an acceptable/guideline developmental immunotoxicity study, which demonstrated no treatment-related effects. Taking the results of this study into account, as well as the rest of the data on clothianidin, EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF for clothianidin were reduced to 1X (February 11, 2011, 76 FR 7712) (FRL–8858–3). That decision is based on the following findings:

a. The toxicity database for clothianidin is complete. As noted, the prior data gap concerning developmental immunotoxicity has been addressed by the submission of an

acceptable developmental immunotoxicity study.

b. A rat developmental neurotoxicity study is available and shows evidence of increased quantitative susceptibility of offspring. However, EPA considers the degree of concern for the developmental neurotoxicity study to be low for prenatal and postnatal toxicity because the NOAEL and LOAEL were well characterized, and the doses and endpoints selected for risk assessment are protective of the observed susceptibility; therefore, there are no residual concerns regarding effects in the young.

c. While the rat multi-generation reproduction study showed evidence of increased quantitative susceptibility of offspring compared to adults, the degree of concern is low because the study NOAEL and LOAEL have been selected for risk assessment purposes for relevant exposure routes and durations. In addition, the potential immunotoxic effects observed in the study have been further characterized with the submission of a developmental immunotoxicity study that showed no evidence of susceptibility. As a result, there are no concerns or residual uncertainties for prenatal and postnatal toxicity after establishing toxicity endpoints and traditional UFs to be used in the risk assessment for clothianidin.

d. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on assumptions that were judged to be highly conservative and health-protective for all durations and population subgroups, including tolerance-level residues, adjustment factors from metabolite data, empirical processing factors, and 100 PCT for all commodities. Additionally, EPA made conservative (protective) assumptions in the ground water and surface water modeling used to assess exposure to clothianidin in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of children and adults as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by clothianidin.

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 population adjusted dose (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to thiamethoxam will occupy 9.5% of its aPAD for children 1 to 2 years old, the population group receiving the greatest exposure. Acute dietary exposure from food and water to clothianidin is estimated to occupy 28% of its aPAD for children 1 to 2 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* In examining chronic aggregate risk, EPA has assumed that the only pathway of exposure relevant to that time frame is dietary exposure. Using this assumption for chronic exposure, EPA has concluded that chronic exposure to thiamethoxam from food and water will utilize 45% of its cPAD for children 1 to 2 years old, the population group receiving the greatest exposure. Chronic exposure to clothianidin from food and water will utilize 28% of its cPAD for children 1 to 2 years old, the population group receiving the greatest exposure.

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). Thiamethoxam is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to thiamethoxam. Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures for thiamethoxam result in aggregate MOEs of 430 for adults and 450 for children 1 to 2 years. Because EPA's level of concern for thiamethoxam is a MOE of 100 or below, these MOEs are not of concern.

For the clothianidin aggregate assessment, the EPA selected the worst-case adult and children exposure scenarios. The treatment of tree trunks using a manually-pressurized hand wand presents the worst-case exposure estimate for adults, while the bed bug scenario presents the worst-case exposure estimates for children 1 to < 2 years old. For short- and intermediate-term ''worst-case'' aggregate exposure estimates, the ARI for adults is 6.5 and for children 1 to < 2 years old, the ARI is estimated at 1.2. ARI estimated values greater than 1.0 indicate risks are not of concern.

4. *Intermediate-term risk.* An intermediate-term adverse effect was identified; however, intermediate term exposures (30 to 180 days of continuous exposure) are not expected from the registered turf and/or indoor uses of thiamethoxam. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for thiamethoxam.

For purposes of performing a clothianidin aggregate assessment, the EPA selected the worst-case adult and children exposure scenarios. The treatment of tree trunks using a manually-pressurized hand wand presents the worst-case exposure estimate for adults, while the bed bug scenario presents the worst-case exposure estimates for children 1 to < 2 years old. For short- and intermediate-term ''worst-case'' aggregate exposure estimates, the ARI for adults is 6.5 and for children 1 to <2 years old, the ARI is estimated at 1.2. ARI estimated values greater than 1.0 indicate risks are not of concern.

5. *Aggregate cancer risk for U.S. population.* The Agency has classified thiamethoxam as not likely to be a human carcinogen based on convincing evidence that a non-genotoxic mode of action for liver tumors was established in the mouse and that the carcinogenic effects are a result of a mode of action dependent on sufficient amounts of a hepatotoxic metabolite produced persistently. Therefore, thiamethoxam is not expected to pose a cancer risk. Clothianidin has been classified as ''not likely to be a human carcinogen'' and is not expected to pose a 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 thiamethoxam or clothianidin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (High Production Liquid Chromatography (HPLC) Method AG–675 with ultraviolet (UV) or Mass Spectrometry (MS) detection) is available to enforce the tolerance expression.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has established MRLs for thiamethoxam in or on coffee at 0.2 ppm, and tea at 20 ppm. These MRLs are the same as the tolerances established for thiamethoxam in the United States.

V. Conclusion

Therefore, tolerances are established for residues of thiamethoxam, 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-N-nitro-4H-1,3,5-oxadiazin-4-imine and its metabolite CGA–322704 N-[(2-chloro-thiazol-5-yl)methyl]-N′-methyl-N″-nitro-guanidine, calculated as the stoichiometric equivalent of thiamethoxam, in or on coffee, green, bean at 0.20 ppm and tea, dried at 20 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 15, 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. In § 180.565, in the table in paragraph (a), remove the entry for ''Coffee, bean, green[1],'' and footnote 1, and add alphabetically entries for ''coffee, green, bean[1]'' new footnote 1, and ''tea, dried,'' to read as follows:

§ 180.565 Thiamethoxam; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Coffee, green, bean [1]	0.20
* * * * *	
Tea, dried [1]	20
* * * * *	

[1] There are no U.S. registrations as of March 27, 2013.

* * * * *

[FR Doc. 2013–06759 Filed 3–26–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0418; FRL–9379–1]

Abamectin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation raises tolerances for residues of abamectin (also known as avermectin B_1 a mixture of avermectins containing greater than or equal to 80% avermectin B_{1a} (5-*O*-demethyl avermectin A_1) and less than or equal to 20% avermectin delta-8,9-isomer) in or on cotton and strawberries. Syngenta Crop Protection Inc. requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective March 27, 2013. Objections and requests for hearings must be received on or before May 28, 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–2012–0418, 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: Jessica Rogala, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (703) 347–0263; email address: *rogala.jessica@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.* To access the OPPTS harmonized test guidelines referenced in this document electronically, please go to *http://www.epa.gov/oppts* and select ''Test Methods and Guidelines.''

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2012–0418 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 28, 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–2012–0418, 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.
- *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 August 22, 2012 (77 FR 50661) (FRL–9358–9), 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 2F8009) by Syngenta Crop Protection LLC, P.O. Box 18300, Greensboro, NC 27419–8300. The petition requested that 40 CFR 180.449 be amended by increasing the established tolerances for residues of the insecticide abamectin (also known as avermectin B_1 a mixture of avermectins containing greater than or equal to 80% avermectin B_{1a} (5-*O*-demethyl avermectin A_1) and less than or equal to 20% avermectin B_{1b} (5-*O*-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A_1) and its delta-8,9-isomer) (referred to as ''abamectin'' in this document) in or on cotton, undelinted seed from 0.005 parts per million (ppm) to 0.015 ppm; cotton, gin by-products from 0.15 ppm to 1.0 ppm and strawberry from 0.02 ppm to 0.06 ppm.

That document referenced a summary of the petition prepared by Syngenta Crop Protection LLC., the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA is establishing tolerance for cotton, undelinted seed and strawberry at levels that vary from levels requested. The reasons for these changes are explained in Unit IV.D.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a

reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue * * *.''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for abamectin including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with abamectin 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. Abamectin has high to moderate acute toxicity by the oral route (depending on the vehicle), high acute toxicity by the inhalation route, and low acute toxicity by the dermal route. It is slightly irritating to the skin but is not an ocular irritant or a dermal sensitizer. The main target organ is the nervous system, and the reduced body weight effect is one of the most frequent findings. Neurotoxicity and developmental effects were detected in multiple studies and species of test animals. The dose/response curve is very steep in several studies, with severe effects (including death and morbid sacrifice) seen at dose levels as low as 0.4 milligrams/kilogram/day (mg/kg/day) and 0.1 mg/kg/day in rats and mice, respectively, following repeated/chronic exposures. Increased susceptibility (qualitative and/or quantitative) was seen in prenatal developmental toxicity studies in mice and rabbits, and in developmental neurotoxicity studies in rats. Review of acceptable oncogenicity and mutagenicity studies provides no indication that abamectin is carcinogenic or mutagenic. Specific information on the studies received and the nature of the adverse effects caused by abamectin as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document, Abamectin: Human Health Risk Assessment at 16, section 4.0 in docket ID number EPA–HQ–OPP–2012–0418.

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 abamectin used for human risk assessment is shown in the following Table.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR ABAMECTIN 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 = 0.5 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Acute RfD = .005 mg/kg/day.	12-week dose-range finding study in dogs LOAEL = 1.0 mg/kg/day based on Mydriasis seen 1–5 times during the first week of treatment. Acute neurotoxicity study in rats LOAEL= 1.5 mg/kg/day based on increased incidence of foot splay.
Chronic dietary (All populations)	NOAEL= 0.12 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 3x	cPAD = .0004 mg/kg/day.	Combined data from three reproduction studies and two developmental neurotoxicity studies (please see the discussion on Chronic Dietary Endpoint) LOAEL = 0.2 mg/kg/day based on decreased pup body weight in pups at 0.2 mg/kg/day.
Incidental oral short-term and Intermediate term (1 to 6 months).	NOAEL= 0.12 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 3x	LOC for MOE = 300	Combined data from three reproduction studies and two developmental neurotoxicity studies (please see the discussion on Chronic Dietary Endpoint) LOAEL = 0.2 mg/kg/day based on decreased pup body weight.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR ABAMECTIN FOR USE IN HUMAN HEALTH RISK ASSESSMENT—Continued

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Dermal All Durations	Dermal study NOAEL = 0.12 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 3x	LOC for MOE = 300	Combined data from three reproduction studies and two developmental neurotoxicity studies (please see the discussion on Chronic Dietary Endpoint) LOAEL = 0.2 mg/kg/day based on decreased pup body weight.
Inhalation short-term All durations	Inhalation study NOAEL = 0.12 mg/kg/day (inhalation absorption rate = 100%). UF_A = 10x UF_H = 10x FQPA SF = 3x	LOC for MOE = 300	Combined data from three reproduction studies and two developmental neurotoxicity studies (please see the discussion on Chronic Dietary Endpoint) LOAEL = 0.2 mg/kg/day based on decreased pup body weight.
Cancer (Oral, dermal, inhalation).	Classification: Not likely to be carcinogenic to humans based on the absence of significant increase in tumor incidence in two adequate rodent carcinogenicity studies.		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_{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 abamectin, EPA considered exposure under the petitioned-for tolerances as well as all existing abamectin tolerances in 40 CFR 180.449. EPA assessed dietary exposures from abamectin 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 abamectin. In estimating acute dietary exposure, EPA used 2003–2008 food consumption information from the U.S. Department of Agriculture (USDA) 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, a refined acute dietary (food and drinking water) exposure assessment was conducted. Tolerance level residues were used for bulb onions, chives, dry beans, and okra. Acute anticipated residues for the remaining commodities were derived from field trial data. Empirical and default processing factors were used. EPA also relied on available percent crop treated (PCT) information for registered uses of abamectin including strawberry and cotton. EPA relied on available data in estimating PCT) for existing uses of abamectin. Surface drinking water concentrations were estimated using the Tier II PRZM/EXAMS (Pesticide Root Zone Model/Exposure Analysis Modeling System) computer model and a national default percent cropped area (PCA) value of 87%. The model predicts that the maximum concentration of total residues of abamectin in surface water (the 1-in-10-year peak exposure) is not likely to exceed 2.3 ppb from the use of aerial/ground applications to dry beans in Michigan.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used 2003–2008 food consumption data from the USDA 2003–2008 NHANES/WWEIA. As to residue levels in food, EPA a refined chronic dietary exposure assessment was conducted. Tolerance level residues were used for bulb onions, chives, dry beans, and and okra. Average residues from field trials were used for the remaining crops. Empirical and default processing factors were also used. EPA used available PCT information registered use of abamectin including strawberry and cotton. Drinking water was represented by a single point estimate of average abamectin residues (the 1-in-ten-year annual mean). The estimated surface water concentration of 1.3 parts per billion (ppb) was based on the application to dry beans in Michigan.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that abamectin does not pose a cancer risk to humans. Therefore, a quantitative dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and 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: The following maximum PCT estimates were used in the acute dietary risk assessment for the following crops that are currently registered for abamectin: Almonds: 75%; apples: 10%; apricots: 5%; avocados: 60%; cantaloupes: 30%; celery: 65%; cherries: 2.5%; cotton: 20%; cucumbers: 10%; grapefruit: 80%; grapes: 25%; honeydew: 35%; lemons: 55%; lettuce: 20%; oranges: 45%; peaches: 2.5%; pears: 80%; pecans: 2.5%; peppers: 25%; potatoes: 2.5%; prunes: 10%; pumpkins: 10%; spinach: 45%; squash: 10%; strawberries: 45%; tangerines: 65%; tomatoes: 20%; walnuts: 20%; and watermelons: 10%.

The following average PCT estimates were used in the chronic dietary risk assessment for the following crops that are currently registered for abamectin: Almonds: 50%; apples: 5%; apricots: 5%; avocados: 40%; cantaloupes: 15%; celery: 40%; cherries: 1%; cotton: 5%; cucumbers: 5%; grapefruit: 60%; grapes: 10%; honeydew: 20%; lemons: 35%; lettuce: 10%; oranges: 25%; peaches: 1%; pears: 70%; pecans: 1%; peppers: 10%; potatoes: 1%; prunes: 2.5%; pumpkins: 2.5%; spinach: 20%; squash: 5%; strawberries: 30%; tangerines: 60%; tomatoes: 10%; walnuts: 10%; and watermelons: 5%.

An emulsifiable concentrate (EC) formulation is currently registered for abamectin for use on cotton and strawberry. The petitioner has requested that the existing tolerance levels be increased to support the registration of cotton and strawberry for a suspension concentrate (SC) formulation. The residue field trials submitted indicate that the SC formulation result in higher pesticide residues than that of the EC formulation. However, the Agency does not expect that the registration of a different formulation will impact the PCT estimates.

In most cases, EPA uses available data from USDA of Agriculture/National Agricultural Statistics Service (USDA/NASS), proprietary market surveys, and the National Pesticide Use Database for the chemical/crop combination for the most recent 6–7 years. EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available public and private market survey data for that use, averaging across all observations, and rounding to the nearest 5%, except for those situations in which the average PCT is less than one. In those cases, 1% is used as the average PCT and 2.5% is used as the maximum PCT. EPA uses a maximum PCT for acute dietary risk analysis. The maximum PCT figure is the highest observed maximum value reported within the recent 6 years of available public and private market survey data for the existing use and rounded up to the nearest multiple of 5%.

The Agency believes that the three conditions discussed in Unit III.C.1.iv. have been met. With respect to Condition a, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions b and c, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available reliable information on the regional consumption of food to which abamectin may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for abamectin in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of abamectin. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on The Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI–GROW) models were used to estimate the drinking water concentrations (EDWCs) of abamectin. For acute exposures, the EDWCs are estimated to be 2.3 parts per billion (ppb) for surface water and 1.6×10^{-3} ppb for ground water. The EDWCs of abamectin for chronic exposures are estimated to be 1.3 ppb for surface water and 1.6×10^{-3} ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 2.3 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 1.3 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Abamectin is currently registered for the following uses that could result in residential exposures: Granular baits used to treat lawns and indoor bait products. EPA assessed residential exposure using the following assumptions: Adults were assessed for short-term residential handler exposure. Residential post-application exposure to adults and children is unlikely for all registered uses of abamectin. 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.''

OPP's *Guidance For Identifying Pesticide Chemicals and Other Substances that have a Common Mechanism of Toxicity* (USEPA, 1999) describes the weight of the evidence approach for determining whether or not a group of pesticides share a common mechanism of toxicity. This guidance defines mechanism of toxicity as the major steps leading to a toxic effect following interaction of a pesticide with biological targets. All steps leading to an effect do not need to be specifically understood. Rather, it is the identification of the crucial events following chemical interaction that are required in order to describe a mechanism of toxicity. For example, a mechanism of toxicity may be described by knowing the following: A chemical binds to a given biological target *in vitro,* and causes the receptor-related molecular response; *in vivo* it also leads

to the molecular response and causes a number of intervening biological and morphological steps that result in an adverse effect. In this context a common mechanism of toxicity pertains to two or more pesticide chemicals or other substances that cause a common toxic effect to human health by the same, or essentially the same, sequence of major biochemical events. Hence, the underlying basis of the toxicity is the same, or essentially the same, for each chemical. In the case of the macrocyclic lactone pesticides (e.g., abamectin, emamectin, and avermectin), there is a wealth of data on the insecticidal mechanism of action for avermectin: Its insecticidal actions are mediated by interaction with the glutamate-gated chloride channels and $GABA_A$ gated chloride channels. This is presumed to be the insecticidal mechanism of action of emamectin and abamectin as well. Insecticidal mechanism of action does not indicate a common mechanism of toxicity for human health. Further, mammals lack glutamate-gated chloride channels; the toxic actions of avermectin appear to be mediated via interaction with $GABA_A$ and possibly glycine gated chloride channels. There is evidence that avermectin B_{1a} binds to $GABA_A$ receptors and activates Cl^- flux into neurons (Abalis et al., 1986; Huang and Casida, 1997). However, there is a paucity of data regarding the resultant alterations in cellular excitability of mammalian neurons and neural networks (i.e., changes in cellular excitability and altered network function as documented with pyrethroids), as well as *in vivo* measurements of altered excitability associated with adverse outcomes. Thus, while the downstream steps leading to toxicity via disruption of $GABA_A$ receptor function for avermectin can be postulated, experimental data supporting these actions are lacking. In addition, specific data demonstrating $GABA_A$ receptor interaction in mammalian preparations are lacking for abamectin and emamectin. Moreover, the specificity of such interaction on the adverse outcome would need to be shown experimentally. $GABA_A$ receptors have multiple binding sites which have been proposed to relate to adverse outcomes. For example, Dawson et al (2000) showed for a group of avermectin-like compounds that rank order for anticonvulsant activity did not parallel the rank order for affinity at the 3H ivermectin site. The authors hypothesized that these findings may be related to differential affinity or efficacy at subtypes of the $GABA_A$ receptor. Other reports have indicated species differences in abamectin effects on $GABA_A$ receptor function in the mouse as compared to the rat (Soderlund et al., 1987).

In conclusion, although $GABA_A$ receptor mediated neurotoxicity may be a common mechanism endpoint for the macrocyclic lactone pesticides, data demonstrating the interactions of emamectin and abamectin with mammalian $GABA_A$ receptors are not available, and data in mammalian preparations linking alterations in $GABA_A$ receptor function to disruptions in neuronal excitability *in vitro* and *in vivo,* and ultimately adverse outcome, are also currently lacking for this class of compounds. In the absence of such data, the key biological steps leading to the adverse outcome (i.e., the mammalian mechanism of action) cannot be established and by extension a common mechanism of toxicity cannot be established.

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 abamectin toxicity database is adequate to evaluate potential increased susceptibility of infants and children, and includes developmental toxicity studies in rat, mice, and rabbits; two 1-generation rat reproductive toxicity studies in rat; a 2-generation reproductive toxicity study in rat; and two developmental neurotoxicity studies in the rat. No developmental effects were seen in the rat developmental toxicity study. However, increased quantitative susceptibility was noted in the prenatal developmental toxicity studies in mice and rabbits, the rat reproductive toxicity studies, and the developmental neurotoxicity studies in rat.

3. *Conclusion.* In previous abamectin risk assessments, the 10X FQPA safety factor was retained as a database uncertainty factor for the lack of a developmental neurotoxicity study. Two developmental neurotoxicity studies have now been submitted and reviewed and the findings in these studies were considered in the identification of toxicological points of departure and uncertainty/safety factors.

EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X for the acute dietary assessment and 3X for all assessments other than acute dietary. That decision is based on the following findings:

i. The toxicity database for abamectin is complete except for immunotoxicity testing. Recent changes to 40 CFR part 158 imposed new data requirements for immunotoxicity testing (OPPTS Guideline 870.7800) for pesticide registration. However, the toxicity database for abamectin provides no indication of immunotoxicity and abamectin does not belong to a class of chemicals that would be expected to be immunotoxic. Therefore, EPA does not believe that conducting an immunotoxicity study will result in a NOAEL less than the NOAELs of 0.5 mg/kg/day and 0.12 mg/kg/day already set for abamectin acute and repeated exposures, respectively, and an additional uncertainty factor is not needed to account for lack of an immunotoxicity study.

ii. Signs of neurotoxicity ranging from decrease in foot splay reflex, mydriasis (*i.e.,*excessive dilation of the pupil), curvature of the spine, decreased fore- and hind-limb grip strength, tip-toe gate, tremors, ataxia, or spastic movements of the limbs were reported in various studies with different durations of abamectin exposure in rats, mice, and dogs. However, the results of two submitted rat developmental neurotoxicity studies did not show any evidence of neurotoxicity.

iii. For all risk assessments involving repeated exposures to abamectin, EPA determined that a 3X safety factor would be appropriate, based on the severity of effects (decrease in pup body weight and mortality) and the steepness of the dose-response curve seen in the developmental neurotoxicity study and three reproductive toxicity studies in the rat. These studies have documented a very narrow dose range from NOAEL (0.12 mg/kg/day) to adverse effect (0.2 mg/kg/day) to severe adverse effect (0.4 mg/kg/day). Dose spacing is commonly

greater than 2X between NOAEL and LOAEL, and the 3X difference between the NOAEL and the dose that induced mortality in the pups in the developmental neurotoxicity study provides little margin of safety for the severity of the effects seen. Retaining an additional 3X FQPA safety factor effectively provides a 10X margin between the dose which causes death (0.4 mg/kg/day) and the NOAEL adjusted by the additional safety factor (0.12 mg/kg/day/3X = 0.04 mg/kg/day). A dose spacing of 10X between a NOAEL and LOAEL is as broad, if not broader, than the dose spacing generally used in animal testing and thus removes the residual concern of the steepness of the dose-response curve and the severe effects noted. Additionally, this adjusted point of departure (0.04 mg/kg/day) would address the concerns for the increased susceptibility seen at higher doses in the 2-generation reproduction study in rats (LOAEL = 0.4 mg/kg/day), prenatal developmental study in mice (LOAEL = 0.75 mg/kg/day), the prenatal developmental toxicity study in rabbits (LOAEL = 2 mg/kg/day), and the 1-generation rat reproduction study (LOAEL = 0.2 mg/kg/day).

With respect to acute dietary exposure, the endpoint selected for risk assessment is based on mydriasis observed in dogs. EPA determined that the additional 3X factor applied to chronic and other exposure scenarios is not applicable to acute exposure for the following reasons:

a. The concerns noted for steepness of the dose-response curve and the severity of effects were not seen in the studies where mydriasis occurred.

b. The reduced body weights noted in studies following repeated exposure to abamectin are not a single dose effect.

c. The increased susceptibility seen in the prenatal developmental toxicity studies, reproductive toxicity studies, and the developmental neurotoxicity studies were seen at a dose lower (LOAEL 0.2 mg/kg/day) than the dose (LOAEL 1.0 mg/kg/day) that caused mydriasis. Therefore, EPA has determined that it would be appropriate if the FQPA SF were reduced to 1X for the acute dietary assessment.

iv. There are no residual uncertainties identified in the exposure databases. The acute and chronic dietary exposure assessments were refined and utilized tolerance level or anticipated residues, default or empirical processing factors, and PCT estimates. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to abamectin in drinking water. These assessments will not underestimate the exposure and risks posed by abamectin. Residential post-application exposure to adults and children is unlikely for all registered uses of abamectin

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 percent adjusted dose (PAD) and chronic percent adjusted dose (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-term, intermediate-term, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to abamectin will occupy 24% of the aPAD for children 1–2 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to abamectin from food and water will utilize 53% of the cPAD for children 1–2 years old the population group receiving the greatest exposure.

3. *Short-term and intermediate-term risk.* Short-term and intermediate-term aggregate exposure takes into account short- and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Abamectin is currently registered for uses that could result in short- and/or intermediate-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short- and/or intermediate-term residential exposures to abamectin .

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in an aggregate MOE of 1800 for the general population Residential post-application exposure to adults and children is unlikely for all registered uses of abamectin. Because EPA's level of concern for abamectin is an MOE of 300 or below, this MOE is not of concern.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, abamectin is not expected to pose a cancer risk to humans.

5. *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 abamectin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodologies are available in Pesticide Analytical Manual II (PAM II) for citrus and processed fractions (Method I), ginned cottonseed (Method IA), and bovine tissues and milk (Method II). Additionally, Method M–073 and M–936–95–2 have been validated by the Agency and submitted for inclusion in PAM II as enforcement methods. These five methods are adequate for enforcement of the tolerances on plants and livestock. Method M–073 and M 936–95–2 may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level. The Codex has not established a MRL for abamectin.

D. Revisions to Petitioned-For Tolerances

Based upon review of the data supporting the petition, EPA revised the proposed tolerance for cotton, undelinted seed from 0.015 ppm to 0.02 ppm and strawberry from 0.06 to 0.05 ppm. The established tolerances are based on residue data using the EC

formulation. Residues from crop field trials using the suspension concentrate (SC) formulation of abamectin plus adjuvant are higher than the established tolerances on cotton and strawberry, which are based on the EC formulation; therefore, higher tolerances are needed for use of the SC formulation on cotton and strawberry. EPA revised the tolerance level based on analysis of the residue field trial data using the Agency's Tolerance Spreadsheet in accordance with the Agency's *Guidance for Setting Pesticide Tolerances Based on Field Trial Data.* Additionally, 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 abamectin 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 abamectin (avermectin B_1 a mixture of avermectins containing greater than or equal to 80% avermectin B_{1a} (5-*O*-demethyl avermectin A_1) and less than or equal to 20% avermectin B_{1b} (5-*O*-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A_1]) and its delta-8,9-isomer) in or on undelinted cotton seed at 0.02 ppm, cotton gin byproducts at 1.0 ppm, and strawberry at 0.05 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 18, 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. In 180.449 is amended in paragraph (a) by:

■ i. Revising the introductory text.

■ ii. Revising in the table, the tolerance levels for Cotton, gin byproducts; Cotton, undelinted seed; and Strawberry to read as follows.

§ 180.449 Avermectin B1 and its delta-8,9-isomer; tolerances for residues.

(a) *General.* Tolerances are established for residues of abamectin, including its metabolites and degradates, in or on the commodities in the following table. Compliance with the tolerance levels specified in the following table is to be determined by measuring only avermectin B1 a mixture of avermectins containing greater than or equal to 80% avermectin B1 a (5-*O*-demethyl avermectin A1) and less than or equal to 20% avermectin B1b (5-*O*-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A1) and its delta-8,9-isomer in or on the following commodities:

Commodity	Parts per million
* * * * * * *	
Cotton, gin byproducts	1.0
Cotton, undelinted seed	0.02

Commodity	Parts per million
* * * * * * *	
Strawberry	0.05
* * * * * * *	

[FR Doc. 2013–06916 Filed 3–26–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2012–0842; FRL–9382–2]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: EPA issued direct final significant new use rules (SNURS) in the **Federal Register** of December 20, 2012 for 9 chemical substances which were the subject of premanufacture notices (PMNs). For the chemical substance identified generically as aromatic sulfonic acid amino azo dye salts (PMN P–12–276) a typographical error has been identified. This document is being issued to correct the typographical error.

DATES: This final rule is effective March 27, 2013.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2012–0842, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

The Agency included in the final rule a list of those who may be potentially affected by this action.

II. What does this technical amendment do?

When promulgating the significant new uses for aromatic sulfonic acid amino azo dye salts, EPA inadvertently listed the respirator as M100 in the workplace protective equipment requirements for § 721.63. EPA did not intend to include this requirement when promulgating the significant new uses for aromatic sulfonic acid amino azo dye salts; the Agency intended the respirator to be designated as N100. This technical amendment corrects that workplace protective equipment requirement for § 721.63.

The preamble for FR Doc. 2012–30695 published in the **Federal Register** issue of December 20, 2012 (77 FR 75390) (FRL–9372–8) is corrected as follows:

1. On page 75394, first column, line 16, correct M100 to read N100.

III. Why is this technical amendment issued as a final rule?

Section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B)) provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the Agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this technical amendment final without prior proposal and opportunity for comment, because notice and comment are unnecessary. The respirator designation of M100 that is being removed was never intended to be included in the SNUR; M100 is a designation for a 3M Corporation series of respiratory face shield, not a respirator; the Agency intended it to be a National Institute for Occupational Safety and Health (NIOSH)-certified N100 respirator. The PMN submitter who brought the error to EPA's attention is familiar with the issue, and EPA is not aware of and does not expect there to be persons who would be adversely affected by the change as there are no companies making plans based on the erroneous notice and no harm resulting from replacing the erroneous requirement for a M100 respirator with that of a N100 respirator. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

IV. Do any of the statutory and executive order reviews apply to this action?

This technical amendment changes an erroneous respirator designation that was placed in § 721.10633(a)(2)(i) when the final rule published in the **Federal Register** of December 20, 2012, promulgating significant new uses of aromatic sulfonic acid amino azo dye salts. The December 20, 2012 final rule addresses these requirements for that action (see Unit IX. of the preamble to that action). This technical amendment does not otherwise amend or impose any other requirements.

As such, this technical amendment is not a ''significant regulatory action'' subject to review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), nor does this technical amendment contain any information collections subject to OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Because the Agency has made a ''good cause'' finding that this technical amendment is not subject to notice and comment requirements under the APA or any other statute (see Unit III. of this document), it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), or to sections 202

and 205 of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1531 *et seq.*). Nor does this technical amendment significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA.

This technical amendment 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, entitled *Federalism* (64 FR 43255, August 10, 1999), nor will this technical amendment have any ''tribal implications '' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000).

This technical amendment does not require any special considerations, OMB review, or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). Nor will this technical amendment have any affect on energy supply, distribution or use as described in Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001).

This technical amendment 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 (NTTAA) (15 U.S.C. 272 note). The technical amendment also does not involve special consideration of environmental justice related issues under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (55 FR 7629, February 16, 1994).

V. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: March 20, 2013.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR part 721 is corrected as follows:

PART 721—[AMENDED]

■ 1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. In § 721.10633, revise paragraph (a)(2)(i) to read as follows:

§ 721.10633 Aromatic sulfonic acid amino azo dye salts (generic).

(a) * * *

(2) * * *

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4) (National Institute for Occupational Safety and Health (NIOSH)-certified N100 respirator with an assigned protection factor of at least 10), (a)(6), (b) (concentration set at 0.1 percent), and (c).

* * * * *

[FR Doc. 2013–07083 Filed 3–26–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 73 and 74

[MM Docket No. 97–234, GC Docket No. 92–52, and GEN Docket No. 90–264; FCC 98–194]

Implementation of Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects an error that appears in the summary of Implementation of Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, published in the **Federal Register** of Friday, September 11, 1998, 63 FR 48615. Paragraph 17 of the **Federal Register** summary erroneously omitted a requirement that winning bidders in broadcast service auctions pay an application fee when filing their long form applications.

DATES: Effective April 26, 2013.

FOR FURTHER INFORMATION CONTACT: Office of Managing Director, Financial Operations: call Thomas Buckley at (202) 418–0725.

SUPPLEMENTARY INFORMATION:

Background

In *Implementation of Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses,* MM Docket No. 97–234 *et al.,* First Report and Order, 13 FCC Rcd 15920 (*First R&O*), the Commission adopted final rules applicable for auctions for licenses in the broadcast services. With specified exceptions, the *First R&O* followed the rules the Commission had previously adopted for non-broadcast service auctions. The original publication of the *First R&O* appeared in 63 FR 48615–48629 (Sept. 11, 1998).

Need for Correction

In Paragraph 164 of the *First R&O,* the Commission adopted two exceptions to its general auctions rules on post-auction procedures, requiring that winning bidders in broadcast auctions pay an application fee when filing their long-form applications, and allowing a shortened 10-day period for the filing of petitions to deny the long-form applications filed by winning bidders. As published, Paragraph 17 of the **Federal Register** summary inadvertently omitted the requirement that long form applications be submitted with an application fee. This correction is issued to address that omission and remedy any confusion resulting from it. Accordingly, paragraph 17 is corrected by making the following amendments:

17. With specified exceptions the Commission also determined to follow in broadcast auctions the general part 1 auction rules with regard to post-auction procedures, including the payment by winning bidders of their bids and the withdrawal, default and disqualification of winning bidders. The Commission stated that long form application fees will apply to the long-form applications filed by winning bidders in broadcast auctions. The *First R&O* additionally adopted a shortened 10-day period for the filing of petitions to deny against the long-form applications filed by auction winners.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2013–06976 Filed 3–26–13; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 111207737–2141–02]

RIN 0648–XC590

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear in the Central Regulatory Area of 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 Pacific cod by catcher vessels (CVs) using trawl gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2013 Pacific cod total allowable catch apportioned to CVs using trawl gear in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 23, 2013, through 1200 hrs, A.l.t., September 1, 2013.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The A season allowance of the 2013 Pacific cod total allowable catch (TAC) apportioned to CVs using trawl gear in the Central Regulatory Area of the GOA is 7,657 metric tons (mt), as established by the final 2012 and 2013 harvest specifications for groundfish of the GOA (77 FR 15194, March 14, 2012) and inseason adjustment to the final 2013 harvest specifications for Pacific cod (78 FR 267, January 3, 2013).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the A season allowance of the 2013 Pacific cod TAC apportioned to CVs using trawl gear in the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 6,657 mt, and is setting aside the remaining 1,000 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 Pacific cod by CVs using trawl gear in the Central Regulatory Area 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 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 directed fishing closure of Pacific cod for CVs using trawl gear in the Central Regulatory Area 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 21, 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 22, 2013.

Kara Meckley,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–07050 Filed 3–22–13; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 78, No. 59
Wednesday, March 27, 2013

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0213; Directorate Identifier 2012–NM–207–AD]

RIN 2120–AA64

Airworthiness Directives; Learjet Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Learjet Inc. Model 45 airplanes. This proposed AD was prompted by a report that the fire barrier seal on the external baggage door does not seal the surrounding door structure due to incorrect positioning of the barrier. This proposed AD would require modifying the fire seal on the baggage door, including doing inspections of the fire seal for correct contact and corrective action if necessary. We are proposing this AD to prevent improper sealing of the baggage door, which could increase the risk of an uncontained fire in the baggage compartment.

DATES: We must receive comments on this proposed AD by May 13, 2013.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this proposed AD, contact Learjet, Inc., One Learjet Way, Wichita, KS 67209–2942; telephone 316–946–2000; fax 316–946–2220; email *ac.ict@aero.bombardier.com;* Internet *http://www.bombardier.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Adam Neubauer, Aerospace Engineer, Airframe Branch, ACE–118W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; phone: 316–946–4156; fax: 316–946–4107; email: *adam.neubauer@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0213; Directorate Identifier 2012–NM–207–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We received a report that the fire barrier seal on the external baggage door does not seal the surrounding door structure due to incorrect positioning of the barrier. Further investigation revealed that there is a deficiency in the original design of the door which does not allow correct positioning of the fire barrier seal against the baggage door opening. This condition, if not corrected, could result in the increased risk of an uncontained fire in the baggage compartment.

Relevant Service Information

We reviewed Bombardier Service Bulletins 40–25–25 and 45–25–35, both Revision 3, both dated February 6, 2012. The service information describes procedures for modifying the fire barrier seal on the baggage door, including doing a general visual inspection of the fire seal for correct contact, and corrective actions if necessary. The modification includes, among other things, modifying the existing bracket assembly and installing an adjustable clip on the bracket. The corrective actions include adjusting the door clip and seal retainer and adjusting the seal.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD affects 342 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification	11 work-hours × $85 per hour = $935	$453	$1,388	$474,696

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Learjet Inc.: Docket No. FAA–2013–0213; Directorate Identifier 2012–NM–207–AD.

(a) Comments Due Date

We must receive comments by May 13, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Learjet Model 45 airplanes, certificated in any category, serial numbers 45–002 through 45–380 inclusive, 45–382 through 45–396 inclusive, 45–398 through 45–405 inclusive; and 45–2001 through 45–2114 inclusive, 45–2116, 45–2118, 45–2120, 45–2122, and 45–2124 through 45–2126 inclusive.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 25: Equipment/Furnishings.

(e) Unsafe Condition

This AD was prompted by a report that the fire barrier seal on the external baggage door does not seal the surrounding door structure due to incorrect positioning of the barrier. We are issuing this AD to prevent improper sealing of the baggage door, which could increase the risk of an uncontained fire in the baggage compartment.

(f) Compliance

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

(g) Modification

Within 300 flight hours after the effective date of this AD: Modify the fire seal on the baggage door, including doing general visual inspections of the fire seal for correct contact and all applicable corrective actions, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 40–25–25 or Bombardier Service Bulletin 45–25–35, both Revision 3, both dated February 6, 2012, as applicable. Do all applicable corrective actions before further flight.

(h) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using: Bombardier Service Bulletin 40–25–25, Revision 1, dated August 23, 2010, or Revision 2, dated February 21, 2011; or Bombardier Service Bulletin 45–25–35, Revision 1, dated August 23, 2010, or Revision 2, dated February 21, 2011 (which are not incorporated by reference in this AD).

(i) Parts Installation Limitation

As of the effective date of this AD, no person may install any part identified in paragraph 2.B., ''Identification Table,'' of Bombardier Service Bulletin 40–25–25 or Bombardier Service Bulletin 45–25–35, both Revision 3, both dated February 6, 2012, on any airplane, unless the actions specified in paragraph (g) of this AD are done concurrently with the installation.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Related Information

(1) For more information about this AD, contact Adam Neubauer, Aerospace Engineer, Airframe Branch, ACE–118W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; phone: 316–946–4156; fax: 316–946–4107; email: *adam.neubauer@faa.gov.*

(2) For service information identified in this AD, contact Learjet, Inc., One Learjet Way, Wichita, KS 67209–2942; telephone 316–946–2000; fax 316–946–2220; email *ac.ict@aero.bombardier.com;* Internet *http://www.bombardier.com.*

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

Issued in Renton, Washington, on March 20, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–07039 Filed 3–26–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0214; Directorate Identifier 2012–NM–152–AD]

RIN 2120–AA64

Airworthiness Directives; Learjet Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Learjet Inc. Model 60 airplanes. This proposed AD was prompted by a report of a high-speed rejected takeoff caused by all four main landing gear (MLG) tires blowing out during the takeoff roll. This proposed AD would require installing new rigid hydraulic tube assemblies to the MLG struts, installing a new MLG squat switch bracket, modifying the MLG squat switch wire harness, modifying the MLG anti-skid wheel transducer electrical wire harnesses, routing and securing the anti-skid wheel and squat switch electrical wire harnesses to the MLG strut assembly; installing outboard bracket assemblies, anti-skid shield, forward electrical cover on the forward stiffener, upper and lower inboard bracket assemblies, and clamps that support the electrical wire harness; modifying the aft stiffener for the new electrical wire harness support; installing the aft electrical cover and strap on the aft stiffener; installing a new flat landing light lamp if necessary; and, for certain airplanes; installing a new wheel speed detect box assembly, nutplates, and brackets and a new thrust reverser interface box, and modifying the wiring for the new thrust reverser interface box. We are proposing this AD to prevent failure of the braking system or adverse operation of the spoiler and thrust reverser system due to external damage, particularly from tire failure, which could result in loss of control of the airplane.

DATES: We must receive comments on this proposed AD by May 13, 2013.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this proposed AD, contact Learjet, Inc., One Learjet Way, Wichita, KS 67209–2942; telephone 316–946–2000; fax 316–946–2220; email *ac.ict@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Don Ristow, Aerospace Engineer, Mechanical Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, KS 67209; phone: 316–946–4120; fax: 316–946–4107; email: *donald.ristow@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0214; Directorate Identifier 2012–NM–152–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We received a report of a high-speed rejected takeoff that occurred when all four MLG tires blew out during the takeoff roll. The tires blew out due to internal heat damage consistent with under-inflation, overloading, or a combination of both. Subsequently, damage from tires could cause damage to various components, including the MLG squat switches, brake hydraulic tubes, wheel speed sensor wiring, and anti-skid components. In the event of damage to the squat switch wiring, thrust reverser operation can be affected adversely. This condition, if not corrected, could result in failure of the braking system and adverse operation of the spoiler and thrust reverser system, which could result in loss of control of the airplane.

Relevant Service Information

We reviewed Bombardier Service Bulletin SB60–32–33, dated July 23, 2012. The service bulletin describes procedures for installing new rigid hydraulic tube assemblies to the MLG struts; installing a new MLG squat switch bracket; modifying the MLG squat switch wire harness; modifying the MLG anti-skid wheel transducer electrical wire harnesses; and routing and securing the anti-skid wheel and squat switch electrical wire harnesses to the MLG strut assembly.

We reviewed Bombardier Service Bulletin SB60–57–7, dated July 23, 2012. This service bulletin describes procedures for installing outboard bracket assemblies, anti-skid shield, forward electrical cover on the forward stiffener, upper and lower inboard bracket assemblies, and clamps that support the electrical wire harness; modifying the aft stiffener for the new electrical wire harness support; installing the aft electrical cover and strap on the aft stiffener; and installing a new flat landing light lamp if necessary.

We reviewed Bombardier Service Bulletin SB60–78–7, Revision 2, dated May 1, 2006. For certain airplanes, this service bulletin describes procedures for installing a new wheel speed detect box

assembly, nutplates, and brackets and a new thrust reverser interface box, and modifying the wiring for the new thrust reverser interface box.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously.

Differences Between Proposed Rule and Service Bulletins

Although Bombardier Service Bulletins SB60–32–33 and SB60–57–7, both dated July 23, 2012, recommend accomplishing the modification and installation within 600 flight hours or 24 months, whichever occurs first, this proposed AD would require compliance within 600 flight hours or 12 months, whichever occurs first. In developing an appropriate compliance time for this AD, we considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the modifications. In light of all of these factors, we find a compliance time of within 600 flight hours or 12 months, whichever occurs first, for completing the required actions to be warranted, in that it represents an appropriate interval of time for affected airplanes to continue to operate without compromising safety. This difference has been coordinated with the manufacturer.

Related Rulemaking

On April 1, 2010, we issued AD 2010–11–11, Amendment 39–16316 (75 FR 32255, June 8, 2010), applicable to Learjet Inc. Model 60 airplanes, serial number 60–002 through 60–369 inclusive. That AD currently requires revising the Tire-Servicing section of the airplane maintenance manual and revising the Tires Limitation section of the airplane flight manual to incorporate revised procedures for servicing tires and checking for proper tire inflation. That AD was prompted by a report of the MLG tires blowing out during a takeoff roll. The actions required by that AD are intended to prevent tire failure, which could result in failures of the braking and thrust reverser systems; and in a critical phase of operation such as takeoff, loss of airplane control could result.

Since issuance of AD 2010–11–11, Amendment 39–16316 (75 FR 32255, June 8, 2010), the FAA has determined that the tire pressure check can be terminated by accomplishing the actions specified in this proposed AD.

Interim Action

We consider this proposed AD the second of three ADs that are related to each other, and collectively address unsafe conditions that might result from damage to critical components on the landing gear or in the wheel well that affect the braking, spoiler, and thrust reverser systems. The manufacturer is currently developing a final modification for the thrust reverser. Once the new thrust reverser modification is developed, approved, and available, we might consider additional rulemaking.

Costs of Compliance

We estimate that this proposed AD affects 275 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Installation of rigid hydraulic tube assemblies and MLG squat switch bracket; modification of MLG squat switch wire harness and MLG anti-skid wheel transducer electrical wire harnesses; routing and securing anti-skid wheel and squat switch electrical wire harnesses to MLG strut assembly (Bombardier Service Bulletin SB60–32–33, dated July 23, 2012).	Up to 53 work-hours × $85 per hour = $4,505.	$7,093	Up to $11,598	Up to $3,189,450.
Installation of outboard bracket assemblies, anti-skid shield, forward electrical cover, upper and lower inboard bracket assemblies, and clamps; modification of aft stiffener; installation of aft electrical cover and strap, and flat landing light lamp (Bombardier Service Bulletin SB60–57–7, dated July 23, 2012).	Up to 25 work-hours × $85 per hour = $2,125.	17,960	Up to $20,085	Up to $5,523,375.
Installation of wheel speed detect box assembly, nutplates brackets and thrust reverser interface box; and modification of wiring for S/Ns 60–002 through 60–276 (Bombardier Service Bulletin SB60–78–7, Revision 2, dated May 1, 2006) (132 U.S. airplanes).	Up to 65 work-hours × $85 per hour = $5,525.	1,154	$6,679	Up to $881,628.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Learjet Inc.: Docket No. FAA–2013–0214; Directorate Identifier 2012–NM–152–AD.

(a) Comments Due Date

We must receive comments by May 13, 2013.

(b) Affected ADs

Certain requirements of this AD affect certain requirements of AD 2010–11–11, Amendment 39–16316 (75 FR 32255, June 8, 2010).

(c) Applicability

This AD applies to Learjet Inc. Model 60 airplanes, certificated in any category, serial numbers 60–001 through 60–413 inclusive.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 32, Landing gear; 57, Wings; 78, Engine exhaust.

(e) Unsafe Condition

This AD was prompted by a report of a high-speed rejected takeoff caused by all four main landing gear (MLG) tires blowing out during the takeoff roll. We are issuing this AD to prevent failure of the braking system or adverse operation of the spoiler and thrust reverser system due to external damage, particularly from tire failure, which could result in loss of control of the airplane.

(f) Compliance

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

(g) Modification and Installation

Within 600 flight hours or 12 months after the effective date of this AD, whichever occurs first: Do the actions required by paragraphs (g)(1), (g)(2), and (g)(3) of this AD, as applicable.

(1) For all airplanes: Install new rigid hydraulic tube assemblies to the MLG struts, install a new MLG squat switch bracket and modify the MLG squat switch wire harness, modify the MLG anti-skid wheel transducer electrical wire harnesses, and route and secure the anti-skid wheel and squat switch electrical wire harnesses to the MLG strut assembly; in accordance with the Accomplishment Instructions of Bombardier Service Bulletin SB60–32–33, dated July 23, 2012.

(2) For all airplanes: Install outboard bracket assemblies, anti-skid shield, forward electrical cover on the forward stiffener, upper and lower inboard bracket assemblies, and clamps that support the electrical wire harness; modify the aft stiffener for the new electrical wire harness support; install the aft electrical cover and strap on the aft stiffener; and install a new flat landing light lamp, as applicable; in accordance with the Accomplishment Instructions of Bombardier Service Bulletin SB60–57–7, dated July 23, 2012.

(3) For airplanes having serial numbers 60–002 through 60–276 inclusive: Install a new wheel speed detect box assembly, nutplates, brackets, and interface box; and modify the wiring for the new thrust reverser interface box, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin SB60–78–7, Revision 2, dated May 1, 2006.

(h) Terminating Action for AD 2010–11–11, Amendment 39–16316 (75 FR 32255, June 8, 2010)

After accomplishing the actions required by paragraph (g) of this AD, the requirement in paragraph (h) of AD 2010–11–11, Amendment 39–16316 (75 FR 32255, June 8, 2010), to check the nose and main tire pressures before 96 hours prior to takeoff, is terminated. All provisions of paragraphs (g) and (h) of AD 2010–11–11 that are not specifically referenced by this paragraph remain fully applicable and must be complied with.

(i) Credit for Previous Actions

This paragraph provides credit for the corresponding actions specified in paragraph (g)(3) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin SB60–78–7, dated February 21, 2005; or Revision 1, dated June 30, 2005; which are not incorporated by reference in this AD.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Related Information

(1) For more information about this AD, contact Don Ristow, Aerospace Engineer, Mechanical Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, KS 67209; phone: 316–946–4120; fax: 316–946–4107; email: *donald.ristow@faa.gov.*

(2) For service information identified in this AD, contact Learjet, Inc., One Learjet Way, Wichita, KS 67209–2942; telephone 316–946–2000; fax 316–946–2220; email *ac.ict@aero.bombardier.com*; Internet *http://www.bombardier.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on March 20, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–07034 Filed 3–26–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

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

RIN 2120–AA64

Airworthiness Directives; Lindstrand Hot Air Balloons Ltd Appliances

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; correction.

SUMMARY: The FAA is correcting an airworthiness directive (AD) that

published in the **Federal Register**. That AD applies to certain Lindstrand Hot Air Balloons Ltd female ACME threaded hose connectors, part numbers HS6139 and HS6144, installed on balloons. The text in the section titled PART–39—AIRWORTHINESS DIRECTIVES, paragraph (c) Applicability, is incorrect. This document corrects that error. In all other respects, the original document remains the same.

DATES: This final rule is effective March 27, 2013. The effective date for AD 2013–03–10; Amendment 39–17345 (78 FR 9785, February 12, 2013) remains March 19, 2013.

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

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

SUPPLEMENTARY INFORMATION: Airworthiness Directive 2013–03–10; Amendment 39–17345 (78 FR 9785, February 12, 2013), requires inspecting the female ACME threaded hose connectors, (P/Ns) HS6139 and HS6144, for leaking and, if leaking is found, tightening the threaded hose connector to the correct torque.

As published, the text in the section titled PART–39—AIRWORTHINESS DIRECTIVES, paragraph (c) Applicability, is incorrect. Reports from the field indicate confusion as to the way the applicability of AD 2013–03–10; Amendment 39–17345 (78 FR 9785, February 12, 2013) is currently written. Some interpret that the AD applies to all balloons and requires a logbook entry regardless of installation of the defective part. The AD should apply to the female ACME threaded hose connectors as installed on any balloon. If these connectors are never installed, then this AD does not apply to that balloon, and this AD does not require a logbook entry.

No other part of the preamble or regulatory information has been changed; therefore, only the changed portion of the final rule is being published in the **Federal Register**.

This final rule is effective March 27, 2013. The effective date for AD 2013–03–10; Amendment 39–17345 (78 FR 9785, February 12, 2013) remains March 19, 2013.

Correction of Regulatory Text

§ 39.13 [Corrected]

In the **Federal Register** of February 12, 2013, on page 9787, in the 1st column, all of the text, in paragraph (c) Applicability under PART 39—AIRWORTHINESS DIRECTIVES of Airworthiness Directive 2013–03–10; Amendment 39–17345; (78 FR 9785; February 12, 2013) is corrected to read as follows:

* * * * *

(c) Applicability

This AD applies to Lindstrand Hot Air Balloons Ltd female ACME threaded hose connectors, part numbers (P/Ns) HS6139 and HS6144, all serial numbers, as installed in hot air balloons, certificated in any category. If these connectors are never installed, then this AD does not apply to that balloon.''

* * * * *

Issued in Kansas City, Missouri, on March 19, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–07030 Filed 3–26–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 101, 104, 105 and 106

[Docket No. USCG–2007–28915]

Transportation Worker Identification Credential (TWIC)—Reader Requirements

AGENCY: Coast Guard, DHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Coast Guard announces a public meeting to take place on April 18, 2013, in Arlington, Virginia to receive comments on a notice of proposed rulemaking published in the **Federal Register** on March 22, 2013, under the title ''Transportation Worker Identification Credential (TWIC)—Reader Requirements.'' The Coast Guard encourages members of the public to attend this meeting and provide oral comments on the notice of proposed rulemaking on TWIC reader requirements.

DATES: A public meeting will be held on Thursday, April 18, 2013, from 1:00 p.m. to 5:00 p.m. to provide an opportunity for oral comments. Coast Guard personnel will accept written comments and related materials at the public meeting as well. Written comments may also be submitted in response to the notice of proposed rulemaking referenced in the **SUPPLEMENTARY INFORMATION** section. The comment period for the notice of proposed rulemaking will close on May 21, 2013. All written comments and related materials submitted before or after the meeting must either be submitted to our online docket via *http://www.regulations.gov* on or before May 21, 2013, or reach the Docket Management Facility by that date.

ADDRESSES: The public meeting will be held at the Crystal City Marriott at Reagan National Airport, 1999 Jefferson Davis Highway, Arlington, Virginia 22202. The building is accessible by taxi, public transit, and privately-owned conveyance.

This meeting is open to the public. Please note that the session may adjourn early if all business, concerns, and questions are addressed. You may submit written comments identified by docket number USCG–2007–28915 before or after the meeting using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. Our online docket for this notice of public meeting is available on the Internet at *http://www.regulations.gov* under docket number USCG–2007–28915.

FOR FURTHER INFORMATION CONTACT: If you have questions concerning the meeting, please call or email LCDR Gregory Callaghan, Commandant (CG–FAC–2), Coast Guard; telephone 202–372–1168, email *Gregory.A.Callaghan@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Background and Purpose

On March 22, 2013, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (78 FR 17781), in which we proposed to require owners and operators of certain vessels and facilities regulated by the Coast Guard to use electronic readers designed to work with the Transportation Worker Identification Credential (TWIC) as an access control measure. The NPRM also proposed additional requirements associated with electronic TWIC readers, including recordkeeping requirements for those owners and operators required to use an electronic TWIC reader, and security plan amendments to incorporate TWIC reader requirements. The TWIC program, including the TWIC reader requirements proposed in the NPRM, is an important component of the Coast Guard's multi-layered system of access control requirements and other measures designed to enhance maritime security.

As authorized by the Maritime Transportation Security Act of 2002 [1] (MTSA), the Transportation Security Administration (TSA) established the TWIC program to address identity management shortcomings and vulnerabilities identified in the nation's transportation system and to comply with the MTSA statutory requirements. On January 25, 2007, the Department of Homeland Security (DHS), through the Coast Guard and TSA, promulgated regulations that require mariners and other individuals granted unescorted access to secure areas of MTSA-regulated vessels or facilities to undergo a security threat assessment by TSA and obtain a TWIC.[2]

This NPRM that is the subject of this public meeting, which would require owners and operators of certain types of vessels and facilities to use electronic TWIC readers, would advance the goals of the TWIC program. In crafting the proposals in the NPRM, the Coast Guard conducted a risk-based analysis of MTSA-regulated vessels and facilities to categorize them into one of three risk groups, labeled A, B, and C. Risk Group A is comprised of vessels and facilities that present the highest risk of being involved in a transportation security incident (TSI).[3] The NPRM proposes TWIC reader requirements for vessels and facilities in Risk Group A. Under the NPRM, vessels and facilities in Risk Groups B and C present progressively lower risks, and would continue to follow existing regulatory requirements for visual TWIC inspection.

The Coast Guard believes that in addition to receiving written comments on the NPRM, a public meeting would benefit the impacted community by providing another forum to raise relevant issues. Also, the Security and Accountability For Every (SAFE) Port Act of 2006 [4] requires the Coast Guard to hold at least one public hearing before promulgating final TWIC reader regulations (*see* 46 U.S.C. 70105(k)(3)). This public meeting will further enable the Coast Guard to craft policy informed by the public.

We may hold one or more additional public meetings regarding the proposals in the NPRM on TWIC reader requirements. We will notify the public of the date(s), time(s), location(s), and other details of any such meeting(s) by publishing a separate notice in the **Federal Register** as soon as we have information available.

You may view the NPRM, written comments, and supporting documents in the online docket by going to *http://www.regulations.gov* and using ''USCG–2007–28915'' as your search term. Locate the NPRM among the search results and use the filters on the left side of the page to search for specific types of documents. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Coast Guard has an agreement with the Department of Transportation to use its Docket Management Facility.

We encourage you to participate by submitting comments either orally at the meeting or in writing. If you bring written comments to the meeting, you may submit them to Coast Guard personnel specified at the meeting to receive written comments. These comments will be submitted to our online public docket. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact LCDR Gregory Callaghan at the telephone number or email address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice of public meeting.

Public Meeting

The Coast Guard will hold a public meeting regarding the ''Transportation Worker Identification Credential (TWIC)—Reader Requirements'' NPRM (78 FR 17781) on Thursday, April 18, 2013 from 1:00 p.m. to 5:00 p.m., at the Crystal City Marriott at Reagan National Airport, 1999 Jefferson Davis Highway, Arlington, Virginia 22202. The building is accessible by taxi, public transit, and privately-owned conveyance. Please note that the session may adjourn early if all business, concerns, and questions are addressed. We will post a written summary of the meeting and oral comments in the docket.

Authority

This notice of public meeting is issued under the authority of 46 U.S.C. 70105(k)(3) and 5 U.S.C. 552(a).

Dated: March 21, 2013.

A.E. Tucci,

Captain, U.S. Coast Guard, Chief, Office of Port and Facility Compliance (CG–FAC).

[FR Doc. 2013–07173 Filed 3–25–13; 4:15 pm]

BILLING CODE 9110–04–P

[1] Public Law 107–295, 116 Stat. 2064 (Nov. 2, 2002).

[2] Transportation Worker Identification Credential (TWIC) Implementation in the Maritime Sector; Hazardous Materials Endorsement for a Commercial Driver's License, 72 FR 3492 (Jan. 25, 2007).

[3] A transportation security incident is a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area, as defined in 46 U.S.C. 70101 (49 CFR 1572.103).

[4] Public Law 109–347, 120 Stat. 1884 (Oct. 13, 2006).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 84

[Docket No. CDC–2013–0004; NIOSH–216]

RIN 0920–AA42

Respirator Certification Fees

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Department of Health and Human Services (HHS) proposes to revise the fee structure currently used by the National Institute for Occupational Safety and Health (NIOSH), within the Centers for Disease Control and Prevention (CDC) to charge respirator manufacturers for the examination, inspection, and testing of respirators which are submitted to NIOSH for the purpose of creating or modifying a certificate of approval. Existing regulations reflect prices for respirator testing and approval that were promulgated in 1972, and have not kept pace with the actual costs of providing these services that benefit respirator manufacturers. This proposed rule is designed to update the regulations.

DATES: HHS invites comments on this proposed rule from interested parties. Comments must be received by May 28, 2013.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* NIOSH Docket Office, Robert A. Taft Laboratories, MS–C34, 4676 Columbia Parkway, Cincinnati, OH 45226.

Instructions: All submissions received must include the agency name and docket number or Regulation Identifier Number (RIN) for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or *http://www.cdc.gov/niosh/docket/review/docket216/default.html.*

FOR FURTHER INFORMATION CONTACT: David Book, NIOSH National Personal Protective Technology Laboratory (NPPTL), 626 Cochrans Mill Road, Pittsburgh, PA 15236; (412) 386–6691 or (412) 386–5200 (these are not a toll-free number).

SUPPLEMENTARY INFORMATION: This proposed rule is designed to establish fees for the following: (1) Reviewing applications submitted to NIOSH; (2) issuing a certificate of approval; (3) modifying a certificate of approval; (4) maintaining a certificate of approval; (5) performing specific, standard laboratory tests which are requested by applicants; (6) developing and/or performing novel tests which are required to evaluate respirator performance; (7) qualifying applicant respirator product sites and quality systems; (8) verifying quality system performance through site quality audits; (9) verifying commercially available respirator performance through product quality audits; (10) replacing testing equipment; and (11) providing and maintaining laboratories and office space.

The preamble is organized as follows:

I. Public Participation
II. Background
  A. Introduction
  B. Background and Significance
  C. Need for Rulemaking
  D. Public Meetings for Discussion and for Comment
III. Summary of Proposed Rule
IV. Regulatory Assessment Requirements
  A. Executive Order 12866 and Executive Order 13563
  B. Regulatory Flexibility Act
  C. Paperwork Reduction Act of 1995
  D. Small Business Regulatory Enforcement Fairness Act
  E. Unfunded Mandates Reform Act of 1995
  F. Executive Order 12988 (Civil Justice)
  G. Executive Order 13132 (Federalism)
  H. Executive Order 13045 (Protection of Children From Environmental Health Risks and Safety Risks)
  I. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)
  J. Plain Writing Act of 2010

I. Public Participation

Interested persons or organizations are invited to participate in this rulemaking by submitting written views, recommendations, and data. In addition, HHS invites comments specifically on the following recommendations proposed in this notice of proposed rulemaking:

(1) To delay the implementation of the approval maintenance fee specified in ''Respirator Certification Fee Schedule A —Administrative Fees'' [1] until 4 months after the publication date of the final rule to allow current approval holders to adjust their inventory of old, obsolete, or marginally profitable certificates of approval. In particular, HHS invites comments on whether 4 months after publication of the final rule allows for a sufficient amount of time to make such adjustments; and

(2) One year as the minimum amount of time for new fees to remain in effect to provide manufacturers sufficient time to plan for application submissions and to determine which approvals to maintain.

Comments submitted by mail should be addressed to the ''NIOSH Docket Officer,'' titled ''Amendments to Respirator Certification Fees, NIOSH Docket #216,'' and should identify the author(s), return address, and a phone number, in case clarification is needed. Comments can be submitted electronically to *http://www.regulations.gov.* Printed comments can be sent to the NIOSH Docket Office at the address above. All communications received on or before the closing date for comments will be fully considered by HHS.

All comments submitted will be available for examination in the rule docket (a publicly available repository of the documents associated with the rulemaking) both before and after the closing date for comments. A complete electronic docket containing all comments submitted will be available on *http://www.regulations.gov.* Comments will be available in writing by request. NIOSH includes all relevant comments received without change in the docket, including any personal information provided.

II. Background

A. Introduction

Under 42 CFR Part 84—Approval of Respiratory Protective Devices, NIOSH approves respirators used by workers in mines and other workplaces for protection against hazardous atmospheres. The Mine Safety and Health Administration (MSHA) and the Occupational Safety and Health Administration (OSHA) require U.S. employers to supply NIOSH-approved respirators to their employees whenever the employer requires the use of respirators. NIOSH currently charges fees for conducting the examination, inspection and testing of such respirators which is necessary to grant the required approval. This proposed rule is designed to assure that all approval activities are covered by appropriate fees, to update the fees charged, and to create a mechanism for routinely updating fees in the future.

B. Background and Significance

The current fees and fee structure for certifying respirators were codified by HHS in 42 CFR part 84, which was published in June of 1995. The fees and

[1] ''Respirator Certification Fee Schedule A—Administrative Fees'' and ''Respirator Certification Fee Schedule B—Testing Fees'' are available in the docket for this rulemaking. The proposed fee schedules will not take effect until after publication of the final rule.

fee structure were carried over from 30 CFR Part 11 [2] without any significant changes, and had not been amended since their initial publication in March 1972. Although the existing fees and fee structure have not been updated in 4 decades, since that time, the cost to NIOSH of respirator examination, inspection, and testing has risen significantly.

C. Need for Rulemaking

Office of Management and Budget (OMB) Circular A–25 Revised (Circular) and the Independent Offices Appropriations Act of 1952 (31 U.S.C. 9701) establish Federal policy regarding fees assessed for Government services, and provide guidance to agencies on the implementation of charges. Among other things, a government agency will: (1) Collect fees for services provided to specific recipients in order for such services to remain self-sustaining; and (2) establish charges for special benefits provided to specific recipients that are at least as great as costs to the agency of providing such benefits. An example of a special benefit from a government agency is a license to carry on a specific activity or business.

Currently, NIOSH spends approximately $2,500,000 annually for creating and modifying certificates of approval, verifying conformance to 42 CFR Part 84, and conducting certification testing. Because the fee structure reflects the 1972 economy, NIOSH currently charges applicants only $240,000 to $500,000 annually. This annual disparity of between $2,000,000 and $2,500,000 does not allow the respirator certification program to be self-sustaining, as required by OMB. Under the Consolidated Appropriations Act of 2012 (Pub. L. 112–74), NIOSH is authorized to retain collected user fees. Therefore, it is vital that NIOSH update the fees it charges to applicants to fully recover the actual costs of respirator certification.

Under 42 CFR Part 84, a NIOSH certificate of approval is equivalent to a license providing a specific recipient, a respirator manufacturer, the ability to sell its NIOSH-approved respirators to U.S. businesses or industries that require the use of respirators by their employees. In accordance with the Circular, NIOSH will charge the recipient for the special benefit of examination, inspection, and testing that comprise the approval. Additionally, NIOSH is required to recover the costs of maintaining approvals, which include maintenance of certification records, verification of continued applicant compliance with approved quality systems and procedures, and verification of actual commercial product performance.

Accordingly, HHS proposes to update the fee schedule for the inspection, approval, and certification of manufacturers' (specific recipients) respirators to cover NIOSH's costs in conducting these processes. HHS proposes to establish a process of periodically updating these fees as necessary to maintain current with changes to costs arising from inflation, new certification requirements, and/or technological changes.

D. Public Meetings for Discussion and for Comment

NIOSH will convene a public meeting to provide stakeholders an opportunity to comment orally on this rulemaking during the comment period. The meeting will be held in the Pittsburgh, Pennsylvania, metro area, and will be announced in a separate notice in the **Federal Register**. This meeting will also be available through remote access capabilities.

III. Summary of Proposed Rule

This proposed rule would amend several sections in 42 CFR Part 84 and replace Subpart C—Fees in its entirety. The proposed provisions would establish a new fee structure designed to enable NIOSH to fully recover the cost to the agency of certification examination, testing, and inspection. Unlike the existing fee structure, the proposed fee structure would take into account the complexity of the class of respirator and the amount of testing required, as well as the work and resources required to perform the testing. Also, the proposed fee structure would charge applicants for the costs of issuing, modifying, and maintaining certificates of approval, production facility inspection (site qualification fee), and for verification of on-going quality system compliance and commercial product performance.

The first proposed fee schedules are not included in the proposed regulatory text but are offered as supporting material in NIOSH Docket #216 and on *www.regulations.gov* Docket CDC–2013–0004 for this rulemaking. After the public comment period, the new fee schedules will be published in a **Federal Register** notice after publication of the final rule. The fees will be effective at that time or as otherwise specified in the final rule. Subsequent fee schedules will be updated periodically through notices in the **Federal Register**, according to the proposed provisions in § 84.23, discussed below.

The following is a section-by-section summary which describes and explains the provisions of the proposed rule. The public is invited to provide comment on any aspect of this rule.

84.2 Definitions

This existing section, under subpart A, establishes definitions of terms found in the Part 84 regulations. The proposed amendment to this section would simply add a definition for the NIOSH National Personal Protective Technology Laboratory (NPPTL), which is the NIOSH unit that conducts respirator certification testing.

84.10 Application Procedures

This existing section, under subpart B, establishes procedures for submitting applications to NIOSH for respirator approval. Under this section, paragraphs (a) and (e) will remain unchanged. Respectively, these paragraphs require that applicants submit to NIOSH a written application and that respirators with electrical or electronic components will be tested in accordance with 30 CFR Part 18.

The proposed amendment to paragraph § 84.10(b) would remove all references to checks or money orders being submitted as part of the application. Instead, NIOSH would bill the applicant under the provisions of proposed § 84.22. The mailing address would be updated to reflect the current address in Pittsburgh, Pennsylvania. Changes to paragraphs (c) and (d) would identify NPPTL as the entity that will conduct the respirator testing.

84.12 Delivery of Respirators and Components by Applicant; Requirements

Paragraph (b) of this existing section would be revised to identify NPPTL as the entity to which applicants must deliver respirator units for certification testing.

84.19 Applicability

HHS proposes that the final rule will take effect 30 days after publication in the **Federal Register**. HHS understands that fees for maintaining existing approvals may cause some approval holders to modify their current business practices (e.g., some manufacturers maintain approvals for products that are not commercially available). Therefore, HHS proposes to delay the implementation of the approval

[2] 30 CFR part 11, replaced by 42 CFR part 84 in 1995, formerly prescribed approval procedures, established fees, and consolidated and extended requirements for obtaining joint approval of respirators by the Bureau of Mines within the Department of the Interior, and NIOSH.

maintenance fee specified in ''Respirator Certification Fee Schedule A—Administrative Fees'' (included in the docket for this rulemaking) until 4 months after the publication date of the final rule to allow current approval holders to adjust their inventory of old, obsolete or marginally profitable certificates of approval. HHS believes that 4 months is sufficient time for manufacturers to request rescission of approvals for items not in production. However, public comments on this timeframe are welcomed.

Paragraph (c) would specify that fees for site audits would be assessed beginning in the October that falls more than 4 months after publication of the final rule.

84.20 Establishment of Fees

Proposed § 84.20 would replace existing § 84.20 in its entirety. Proposed paragraph (a) would establish the fee structure for the examination, testing and inspection required to issue, maintain, and modify certificates of approval.

Proposed paragraph (b) would specify the activities for which NIOSH would charge fees. Such activities would include: (1) Application and approval processing, including the review of documents, analysis of drawings, technical evaluation and testing of respirators; (2) approval maintenance, including records management, product audits, and site audits to verify the maintenance of approved quality systems; and (3) the qualification of new respirator production sites. Direct and indirect costs associated with those activities would include: (1) Clerical services, computer tracking, status reporting, control of records and document preparation; (2) management and overhead costs (for further discussion, see Section IV.A., below); and (3) the purchase, maintenance, and replacement of the facilities and equipment required to test and evaluate respirators. As discussed below in the Executive Order 12866 economic analysis, the fee structure proposed in this notice is intended to recover the full cost of providing respirator certification services to manufacturers.

Finally, proposed paragraph (c) would specify the activities for which NIOSH does not intend to charge fees. Such activities would include: (1) Technical assistance not associated with applications for approval; (2) research and surveillance activities conducted by other NIOSH branches; (3) respirator research; and (4) regulatory review activities, and the development of standards and regulations.

84.21 Fees Calculation

Proposed § 84.21 would specify how fees would be calculated and administered. Paragraph (a) would specify that the fees charged would reflect the actual costs incurred by the government for the requested services.

Paragraph (b) would specify the procedure by which NIOSH would estimate the fee for an applicant, including deriving the estimate using a published fee schedule. The paragraph would require that NIOSH provide the estimate to the applicant and receive authorization before beginning the technical evaluation. The testing requirements for the various classes of respirators that NIOSH evaluates under 42 CFR Part 84 are well defined. NIOSH has extensive experience with processing applications for respirator approval, and therefore expects that most applications will be of a routine nature and the final charges within the original fee estimate. Application and certification fees are generally standard for each type of respirator, although some charges, such as quality assurance audits, will be dependent on the number of approvals and manufacturing sites maintained by the manufacturer seeking approval. As described in § 84.24, occasionally, unusual or undisclosed features or characteristics of the design under investigation require more evaluation time or additional tests that were not anticipated in the initial fee estimate. Accordingly, NIOSH will notify applicants what the maximum additional cost would be for such tests. NIOSH will require advance authorization from applicants for the additional costs associated with this testing.

Proposed paragraph (c) would establish that, in the event that NIOSH determines that actual costs exceed the estimate provided to applicants, NIOSH would revise the fee estimate. The applicant will have the option of either withdrawing the application and paying for NIOSH services already performed or authorizing payment of the revised estimate, in which case NIOSH will continue the application review and related testing.

Proposed paragraph (d) would require that NIOSH charge no more than the actual costs of respirator application processing, including the review of documents, analysis of drawings, technical evaluation, and testing of respirators. (See section IV.A., below, for a thorough discussion of these costs.)

Proposed paragraph (e) would describe how the applicant may withdraw an application before NIOSH has completed its review, and the costs for which the applicant would remain liable. Such costs would include any work that NIOSH has already performed when the request to withdraw an application is received by NIOSH. Examples include any administrative work, any technical evaluations of drawings and designs, and any testing which has been set up or performed.

84.22 Fee Administration

Section 84.22 would establish the procedure NIOSH would use to bill applicants. Proposed paragraph (a) would explain that applicants will be billed for all fees assessed upon completion of NIOSH testing, rather than be asked to submit an estimated fee with the application, as is currently done. Payment instructions will be provided in the invoice. Applicants will be advised of payment options, including procedures for submitting payments electronically through the Federal Web site *https://pay.gov.*

Proposed paragraph (b) would address billing for maintenance fees, which have not previously been charged by NIOSH.

Proposed (c) would establish that NIOSH may impose sanctions in the event that a manufacturer fails to remit payment for a service performed by the agency. Such sanctions may include, but would not be limited to, NIOSH taking the following actions: (1) Refusing to accept future applications for approval, except for applications for extensions of approval needed to address respirator recall and retrofit matters that are associated with health and safety issues for workers; (2) imposing a stop-sale order for all approved products; or (3) engaging appropriate Federal government authorities to initiate debt collection procedures for the unpaid fees. Sanctions will be determined on a case-by-case basis; considerations will include an assessment of the manufacturer's particular circumstances and other stakeholders' needs. Flexibility in meeting these needs cannot be achieved without the ability to choose and impose appropriate sanctions on manufacturers who may miss one or several payments.

84.23 Fee Revision

Proposed § 84.23 would establish the fee schedules for NIOSH's respirator certification activities. Proposed paragraph (a) would require fee schedules to remain in effect for at least 1 year and to be revised at least every 5 years. NIOSH chose 1 year as the minimum amount of time for the fees to remain in effect to give manufacturers an opportunity to plan for application submissions. Five years was chosen as

a maximum amount of time for the fees to remain in effect to ensure that NIOSH is reimbursed for the actual costs of respirator approval, in the event that costs to the program increase. HHS welcomes public comment on whether a 1-year minimum is adequate for manufacturers to plan their submissions.

Proposed paragraph (b) would specify that notification of changes in schedules would be published in the **Federal Register**.

Proposed paragraph (c) would establish that the current fee schedules would remain in effect until new schedules are published.

84.24 Authorization for Additional Tests and Fees

Proposed § 84.24 would allow NIOSH the discretion to conduct special or additional examinations or tests, apart from those specified for a particular respirator class under this Part, as might be necessary due to unusual characteristics of the respirator design, manufacturing information, or product samples. This authority would be retained without substantive change, as currently specified under existing § 84.22(b).

84.66 Withdrawal of Applications

Existing § 84.66 of subpart G establishes procedures for the withdrawal of respirator certification applications. Existing paragraph § 84.66(a), which establishes an applicant's right to withdraw an application, will be retained in its entirety.

Paragraph (b) would be amended to specify that NIOSH would bill the applicant for costs incurred during the incomplete processing of the application until and including its withdrawal, as provided under § 84.21(e). NIOSH would bill the applicant upon receipt of the written withdrawal notice. More information about billing procedures will be available in the guidance document, ''Standard Application Procedure for the Certification of Respirators Under 42 CFR 84.'' [3]

84.258 Fees

HHS proposes to remove existing § 84.258 from subpart N, which contains a special respirator fee schedule for vinyl chloride respirators. The fees that would be established by this proposed rule under § 84.21 would apply to this group of respirators.

84.1102 Fees

HHS proposes to remove existing § 84.1102 from subpart KK, which contains a special respirator fee schedule for a series of respirators, including powered air purifying respirators. The fees that would be established by this proposed rule under § 84.21 would apply to this group of respirators.

IV. Regulatory Assessment Requirements

A. Executive Order 12866 and Executive Order 13563

Executive Order 12866 and Executive Order 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).

This proposed rule is not being treated as a ''significant regulatory action'' within the meaning of E.O. 12866. The proposed rule is not considered economically significant, as defined in section 3(f)(1) of the executive order and does not raise novel policy issues or have any of the other effects specified in section 3(f)(2)–(4). Thus, this rule has not been reviewed by the Office of Management and Budget (OMB).

NIOSH approves two categories of respirators: air-purifying respirators (APR), which filter contaminants in the environment (ambient air); and air-supplying respirators (ASR), which provide the user with clean breathing air (from a supply separate from the ambient air). APR includes particulate respirators, like the disposable N95 commonly used in healthcare settings; the elastomeric respirator with replaceable filters (ie., ''gas mask''); and the powered air-purifying respirator (PAPR), which employs a battery-powered blower to move breathing air through the filters.

ASR includes respirators that deliver breathing air to the wearer, using either compressed or chemical breathing air or a remote source. The respirator types in this category include the self-contained breathing apparatus (SCBA) commonly worn by members of the fire service; the closed-circuit escape respirator (CCER) used for emergency escape in underground coal mining and on-board ships; and the airline (air hose) respirator used for industrial chemical and paint applications and hazardous materials management.

Of the U.S. respirator market of products approved by NIOSH, approximately 35 percent of approval holders are U.S. companies and 65 percent are foreign. The foreign component of this distribution has nearly doubled since 2000, and is largely represented by manufacturers producing low-cost filtering facepiece respirators. The North American respiratory protection market generated revenues around $1,830 million in 2007, the most recent data available.[4] A summary of market segmentation, by respirator type, is offered in Table 1, below.

TABLE 1—INDUSTRY OVERVIEW

Respirator type	Market share 2007 (%)	Revenues 2007 (millions $)
Air-Purifying		
Elastomeric	28.1	514.2
Particulate	21.1	386.1
Powered air purifying	7.0	115.3
Air-Supplying		
SCBA (open- and closed-circuit)	35.2	677.1
CCER	2.8	31.1

[3] The 2005 version of the Standard Application Procedure is available at *http://www.cdc.gov/niosh/npptl/resources/certpgmspt/pdfs/SAPJul2005.pdf.* This document does not reflect the changes proposed in this rulemaking and will be updated prior to publication of this final rule.

[4] Frost & Sullivan [2008]. North American Respiratory Protective Equipment Market. Report N2E7–39 at 1–1.

TABLE 1—INDUSTRY OVERVIEW—Continued

Respirator type	Market share 2007 (%)	Revenues 2007 (millions $)
Airline	5.8	106.1

Source: Frost & Sullivan [2008]. North American Respiratory Protective Equipment Market. Report N2E7–39.

As discussed above, OMB Circular A–25 Revised requires that the NIOSH respirator program be self-sustaining, and that the Agency recover the full cost of certification and testing services offered to respirator manufacturers. HHS proposes to set fees for these services based upon costs generated in a typical calendar year, 2009. The data and analyses discussed here were generated at the outset of the drafting of this proposed rule, and NIOSH believes there has been minimal inflation affecting the NIOSH costs in the past 2 years. NIOSH will update the fee schedules and related analyses using the most current available data in the final rule.

All of the proposed fees incorporate direct and indirect costs of providing testing and approval services, including personnel costs, physical overhead, and management and supervisory costs. For the purposes of this proposed rule, an average hourly cost of $50 per hour (rounded figure from Table 2) was used as a reasonable estimate; in cases where there were special or unique costs (e.g. chemicals for testing, travel for site audits) those costs were accounted for over and above the hourly cost.

TABLE 2—HOURLY COSTS

	Salary/hour ($)	Benefits/hour ($)	Total ($)
Certification Staff	36.66	9.55	46.21
Management Overhead (OD)	3.96	1.12	5.08
Prorated Total	40.62	10.67	51.29

Fixed costs are approximately $500,000 per year. These are the costs required to ensure the continued availability of a testing laboratory and are reasonably independent of the number of respirators tested or reviewed at any given time. These costs are broken down in Table 3, below.

TABLE 3—FIXED COSTS

Facilities	
Total cost	$5,161,860
Total square feet used by NIOSH	474,000
Cost per square foot	$9.93
Square feet used for certification and approval activities	23,480
Annual cost for certification and approval activities	$233,156
Test Equipment	
Total cost	$2,510,000
Amortization period	10 years
Annual cost of test equipment	$251,000

The fee schedules that are the basis for the analysis below are broken down into administrative fees (including site qualification, new applications, new approvals, modification, records maintenance, quality assurance maintenance [site audits], product performance maintenance [product audits], facility maintenance, and testing capacity maintenance [test equipment depreciation]), and testing fees (including all laboratory tests conducted on air-supplied and air-purifying respirators, and respirators certified for use against chemical, biological, radiological, and nuclear agents). To view the full proposed fee schedules, see ''Respirator Certification Fee Schedule A—Administrative Fees'' and ''Respirator Certification Fee Schedule B—Testing Fees,'' which are available in the docket for this rulemaking. HHS offers the following explanation for the fee structure proposed in this rulemaking:

Application: The application fee allows NIOSH to process the paperwork associated with a new application request. New applications were estimated at 4 hours of processing time with no other expenses. Thus, the proposed new application processing fee is set at $200. In 2009, NIOSH processed 435 applications and would have received payments in the amount of $87,000.

Approval: A fee is charged for each new approval granted an applicant. Because new approvals are estimated to require 2 hours each above the base application fee, the proposed fee is set at $100. In 2009, NIOSH granted 700 approvals [5] and would have received payments in the amount of $70,000.

Approval Modification: An approval-holder may apply to NIOSH for the modification of an existing approval. Requests to obsolete a certificate of approval are considered to be modifications of an existing approval. Modified approvals are estimated to require 1 hour each above the base application fee. Thus, the proposed modification fee is set at $50. In 2009, NIOSH granted 820 modifications of approval [6] and would have received payments in the amount of $41,000.

Records Maintenance: Each existing approval is estimated to require 1 hour of records maintenance time per year. The proposed maintenance fee is set at $50. Manufacturers held a total of 6,800 current approvals in 2009 and would have remitted maintenance payments in the amount of $340,000.

Quality Assurance Maintenance: The quality assurance maintenance fee will cover the costs of the quality auditing program. The cost to NIOSH for conducting facility audits depends on many variables, including the number of

[5] Note: one application may result in multiple approvals, so it is not unusual for the number of new approvals to exceed the number of applications.

[6] Note: One application may result in multiple modifications of approval, so it is not unusual for the number of modifications of approval to exceed the number of applications.

manufacturing sites, the size of the manufacturing sites, the quality performance of the manufacturing sites, the location of the sites, and whether the respirators are used for mining. NIOSH finds it appropriate to divide the overall cost to the agency among all existing approvals, as the quality systems for all approvals need to be verified. Therefore, quality audits will be charged annually per approval. The proposed quality assurance maintenance fee is set at $85 per existing approval. Manufacturers held a total of 6,800 current approvals in 2009 and would have made payments in the amount of $578,000 to cover in full the costs of quality audits at the sites.

Product Performance Maintenance: The product performance maintenance fee will cover the costs of the product audit program. Product audits are conducted on approved respirators and these respirators are, typically, obtained through normal commercial purchases. A decision logic is used to determine which respirators to purchase and test; one of the central factors in this decision is whether significant modifications have been made from the original, approved design. Accordingly, a fee for product performance audits will be added to each modification of approval requested. The proposed product performance maintenance fee is set at $150. A manufacturer that does not modify an approval will not be subject to a product performance maintenance fee. In 2009, NIOSH granted 820 modifications of approval and would have received payments in the amount of $123,000 to cover in full the costs of product audits.

Site qualification: The site qualification fee provides for a one-time inspection of new production facilities. The fee would include travel expenses for personnel (including travel to sites outside the United States) as well as hourly charges.[7] Each site qualification is estimated to take 4 hours of preparation time, 16 hours in travel time, 16 hours on-site, and 4 hours of document/report time for a total of $2000 in staff costs (40 hours x $50/hour); travel expenses are estimated at $3000 for each site qualification inspection ($3000 is the average cost of travel for staff conducting site audits). Thus, the proposed site qualification fee is set at $5,000. In 2009, NIOSH performed six site qualifications and would have received payments in the amount of $30,000.

Maintenance of Testing and Approval Facilities: The facility maintenance fee will cover the costs of the respirator certification facilities located at the HHS-owned site in Pittsburgh, Pennsylvania. The costs for utilities, security, maintenance, maintenance equipment, maintenance staff and facilities management staff are included in this fee. Facility maintenance is considered to be a fixed cost and independent of the certification activity in any given year. Accordingly, this fee will be assessed annually per approval. In 2009, the facility operating costs specific to respirator certification were $233,156 and manufacturers held 6,800 current approvals. A fee of $34.00 per approval would have returned $231,200 to the program.

Testing Capacity Maintenance: The testing capacity maintenance fee is designed to recover the depreciation of testing equipment used for respirator certification. Equipment depreciation is typically considered to be a fixed cost and, therefore, NIOSH has classified it as an administrative (maintenance) fee. The testing capacity maintenance fee will be assessed annually per approval. In 2009, the total cost of all certification equipment was $2,510,000. A 10 year amortization schedule is consistent with the life expectancy used in the purchasing of this equipment; therefore the annual depreciation of testing equipment is $251,000. In 2009, manufacturers held 6,800 approvals. A fee of $36.00 per approval would have returned $244,800 to the program.

Testing: The proposed fees for each individual test are specified in ''Respirator Certification Fee Schedule B—Testing Fees,'' posted in NIOSH Docket #216 and on *www.regulations.gov* in Docket CDC–2013–0004. The testing fees include the cost of materials and equipment as well as hourly wages. Testing fees are established by analyzing the time, equipment, chemicals and supplies required for each individual test. The actual tests performed by NIOSH in 2009 generated estimated fees of $717,000 for that year. Unlike other fees charged by NIOSH, fees for testing respirators against chemical, biological, radiological, and nuclear (CBRN) agents have been recently generated and are currently billed according to the actual cost of testing performed by either U.S. military laboratories or by the NIOSH National Personal Protective Technology Laboratory. In 2009, NIOSH performed three CBRN tests and received payments in the amount of $150,000. These CBRN fees have been excluded from Table 4.

In order to use the existing accounting system, the proposed fees have also been grouped into three categories—administrative/evaluation, testing, and audit activities—as summarized in Table 4, below.

TABLE 4—VARIABLE FEE RECOVERY ESTIMATES

Administrative/Evaluation Activities	
2009 Budget	$775,000
Percentage of activities related to billable fees	75%
Fees target	$581,000
Estimated recovery under revised regulation	
Applications	$87,000
New approvals	$70,000
Modifications	$41,000
Maintenance fee, records	$340,000
Site qualification	$30,000
Total fees	$568,000
Percent recovery	97.1% *
Testing Activities **	
2009 Budget	$840,000
Percentage of activities related to billable fees	85%
Fees target	$714,000
Estimated recovery under revised regulation	
Testing fees	$717,000
Total fees	$717,000
Percent recovery	100%
Audit Activities	
2009 Budget	$708,000
Percentage of activities related to billable fees	100%
Fees target	$708,000
Estimated recovery under revised regulation	
Product audit fees	$123,000
Site audit fees	$578,000
Total audit fees	$701,000
Percent Recovery	99.0%

* Given the level of variation in submissions from year to year, projections of 90–100% are considered to be full recovery.
** CBRN fees have been excluded.

In Table 4, above, the administrative/evaluation category includes most of the NPPTL Technology Evaluation Branch overhead in addition to the certification activities. HHS estimates that 75 percent of this category provided services that were directly related to billable certification activities. The testing category targets maintenance of certification equipment, laboratory supplies and testing. HHS estimates that 85 percent of this category provides services directly related to billable certification testing activities. The audit category includes both the site audit and

[7] NIOSH typically employs contractors to conduct site audits, at an average cost of $100 per hour.

product audit activities. HHS estimates that 100 percent of this category provides services directly related to billable audit activities.

TABLE 5—FIXED FEE RECOVERY ESTIMATES

Facility maintenance		Test equipment depreciation	
2009 Actual Cost	$233,156	2009 Depreciation	$251,000
Proposed Fee	231,200	Proposed Fee	249,600
Percent Recovery	99.2%	Percent Recovery	99.4%

The fixed fee categories are recoverable operating expenses of the respirator certification activity. However, they have not historically been part of the NPPTL budget process and, therefore, they are broken out here separately. The facilities maintenance costs have been appropriated through NIOSH appropriation requests. Equipment replacement has been handled as either (a) a special one-time request related to special circumstances or special needs; or (b) as a distribution from retained user fees provided by manufacturers for certification activities.

This proposed rule is designed to recover the costs associated with providing services for the examination, inspection, and testing of respirators for the purposes of issuing, modifying, and maintaining certificates of approval. The current annual cost for this program is $2,500,000. NIOSH currently recovers approximately 10 to 20 percent of these costs under an outdated fee schedule that has remained in effect since 1972. NIOSH estimates that the total additional cost of this rulemaking to the 70 manufacturers of NIOSH-approved respirators would be between $2,000,000 and $2,500,000 annually, approximately 0.125 percent of the almost $2 billion industry, and less than 2.5 percent of the $100 million significance threshold.

The proposed rule would not interfere with state, local, and tribal governments in the exercise of their governmental functions.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* requires each agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small not-for-profit organizations. HHS believes that it can certify this rule under the RFA, but has prepared an Initial Regulatory Flexibility Analysis because it lacks information about the revenues of small entities that would be impacted. Therefore, HHS requests comments from manufacturers on this matter as the financial operations of these small entities are not publicly available to be directly analyzed.

This rule would update the user fee structure for the certification of respiratory protective devices. The current fee structure, in place since 1972, has limited the Agency's ability to recover the majority of costs for respirator testing and certification. The current fee structure charges a set fee for the examination, inspection, and testing of eight broad groups of respirators. A single fixed fee is specified for each type of respirator without regard to the complexity of the respirator or the number of specific tests which are required. For example, the examination, inspection, and testing of a self-contained breathing apparatus for entry and escape, 1 hour or more costs $3,500; for a single hazard gas mask, the cost is $1,100; a supplied-air respirator will cost $750 for examination, inspection, and testing (42 CFR 84.20). As a result, NIOSH currently recovers only about 10 to 20 percent of the costs to provide initial certification and testing activities.

The Circular requires that the NIOSH respirator certification program be self-sustaining, and that the Agency recover the full cost of certification, maintenance and testing (see Section II.C. above). NIOSH's objective is to recover all of these costs. The proposed schedules (included in NIOSH Docket #216 and *www.regulations.gov* Docket CDC–2013–0004 for this rulemaking) will include fees for each individual test required to grant a new approval or modification of an approval; processing the paperwork associated with any application request; granting a new approval or modifying an existing approval; maintaining each approval held during the year; and inspecting new production facilities.

This proposed rule applies only to those companies that hold NIOSH approvals for certified respirators, or wish to apply for such approvals. It does not duplicate, overlap, or conflict with other rules.

There are 70 respirator manufacturers that hold NIOSH approvals. Of this group, 10 manufacturers are considered large companies; 35 are approval-holders based outside of the United States; and 25 are classified as small businesses as defined under the Small Business Act for this industry sector (NAICS 339113—Surgical Appliance and Supplies Manufacturing), employing fewer than 500 employees. Accordingly, HHS has given consideration to the potential impact of this rule on these 25 companies.

HHS must establish whether the proposed rule would have a significant economic impact on a substantial number of small businesses. According to HHS guidance, 5 percent or more of affected small businesses within an industry is considered a substantial number of businesses; an average annual impact on small businesses of 3–5 percent or more is considered a significant economic impact. Given that 25 of 70 regulated companies that comprise the respirator industry are small businesses, HHS considers a significant number to be affected by this proposed regulation. Many of these small companies are privately owned and, therefore, do not release public financial statements. However, as discussed below, we believe it is unlikely that the proposed regulation will exceed the HHS threshold for economic significance. For the purposes of this analysis, HHS has further categorized the small companies into three groups, as presented in Table 6 below.

TABLE 6—COMPANIES GROUPED BASED ON SIZE

Group ID	Group type	Number of employees	Number of companies
Group 1	Small	<50	10

TABLE 6—COMPANIES GROUPED BASED ON SIZE—Continued

Group ID	Group type	Number of employees	Number of companies
Group 2	Small	51–250	8
Group 3	Small	251–500	7
Group 4	Large	>500	10

In order to predict the effects of the new fee structure, the existing fees submitted to NIOSH for approval activities were examined for the years 2005 through 2009 inclusive. This 5-year period was considered to be representative of typical approval activities. The recent past is the best model that NIOSH has to predict likely application behavior in the near future.[8]

The current fee structure specifies a single fee for each type of respirator approval (See 42 CFR 84.20–84.22). This type of fee structure tends to favor those companies who demand extensive services and disadvantage companies who have fairly simple, easily executed requests. In order to better balance actual fees charged with actual services requested, the proposed fees have been reallocated to be proportionate to the extent of services required.

HHS is committed to ensuring that the regulatory burden does not disproportionately impact small businesses. Accordingly, the proposed fee structure takes into account the complexity of the testing required to approve a respirator model. Typically, small companies have simple approval requests with few testing requirements. By designing a fee structure which would charge for the actual testing performed and individual fees which would be based on the number of approvals granted/modified, small companies would not pay for potential services that they do not use. Likewise, small companies typically have a limited number of existing approvals, so maintenance fees based on the number of approvals would minimize the fees charged to small companies versus large companies. Simply increasing the fees under the existing fee structure would impose a competitive disadvantage on small companies, because any fixed increase in fees would represent a greater percentage of revenue for small companies than for large companies. This is particularly relevant for the respirator manufactures since the smallest companies have 1–10 employees while the largest significantly exceed 1,000 employees.

Tables 7, 8, and 9, below, address the costs for existing approval holders. The site qualification fee ($5000) has not been incorporated into those figures.

TABLE 7—CURRENT STATISTICS FOR APPROVAL HOLDERS

	Group 1	Group 2	Group 3	Group 4
Avg. number approvals held per company	3	30	31	566
Avg. new approval applications per year per company	0.6	0.8	1.8	3.5
Avg. number modification applications per year per company	0.4	0.9	2.6	6.6
Avg. fees paid per year per company ($)	850	2,050	4,150	8,100
Total fees for 2005–2009 ($)	42,200	81,820	145,450	403,965

TABLE 8—STATISTICS FOR APPROVAL HOLDERS IF PROPOSED FEES HAD BEEN IN PLACE DURING 2005–2009 ($)

Average cost per company per year	Group 1	Group 2	Group 3	Group 4
Testing fees	1,400	2,730	10,600	15,680
New approvals	185	255	575	2,490
Modified approvals	95	225	525	1,740
Records maintenance	150	1,500	1,570	28,310
Product audits	60	135	390	990
Site audits	255	2,550	2,640	48,100
Facilities maintenance fee	100	990	1,020	18,680
Test equipment depreciation	95	960	990	18,110
Total fees	2,340	9,345	18,310	134,100

TABLE 9—COMPARISON OF CURRENT AND PROPOSED FEES

	Group 1	Group 2	Group 3	Group 4
Avg. current fees per year per company ($)	850	2,050	4,150	8,100
Avg. proposed fees per year per company ($)	2,340	9,345	18,310	134,100
Avg. increase in cost per company ($)	1,490	7,295	14,160	126,000
Avg. percentage increase per company (%)	175	356	341	1,556
Percentage of current fees paid per group (%)	6	12	22	60

[8] Fees for the certification of respirators that provide protection from Chemical, Biological, Radiological, and Nuclear (CBRN) agents processed during the 2005–2009 time period were not included in the comparison for the following reasons: Only one small company holds any current CBRN approvals; CBRN approvals tend to be very expensive (~$100,000) and would skew all of the statistics; CBRN fees were set fairly recently (2002) and are based on actual testing costs; and CBRN fees will not change significantly as a result of the proposed revision to fees.

TABLE 9—COMPARISON OF CURRENT AND PROPOSED FEES—Continued

	Group 1	Group 2	Group 3	Group 4
Percentage of proposed fees paid per group (%)	1.5	5	8	85.5

According to Table 10, below, a site qualification fee would be triggered very infrequently. The types of events that would trigger a site audit include: The company becomes an approval holder for the first time (Event 1); the company moves to or adds a new production site (Event 2); or the company is sold and production moves to a new site (Event 3). Based on the 2005–2009 NIOSH data, an existing small approval holder would require a site qualification about once every 14 years [(5 years) × (25 companies) ÷ (9 events) = 13.9 years between events]. Existing large approval holders would require a site qualification about once every 5 years [(5 years) × (10 companies) ÷ (11 events) = 4.5 years between events]. While NIOSH cannot predict the type or number of events that might trigger a site audit in the future, the number of events that triggered such audits in the past is used here to provide a realistic estimate of future site qualification fees.

The site qualification fee would apply to all new approval holders, since their facilities will not have been previously qualified. NIOSH does not believe that this fee represents a significant entry cost, in relation to the costs required to newly manufacture NIOSH-certified respirators. In any event, these do not represent new costs imposed on existing small businesses in respirator manufacturing impacted by this rulemaking.

For both small and large companies the most common reason that a site qualification fee would be required is Event 2. That is, a company either adds a new production site or moves the existing production site to a new facility. The cost of qualifying a new production site would be very small compared to the costs of acquiring, designing, staffing, and beginning production at a new site.

Small companies often experience type 3 events. They are often sold and then relocated by the acquiring company. Again, the cost of qualifying a production site would be very small compared to the cost of buying a company and relocating it.

TABLE 10—STATISTICS FOR APPROVAL HOLDERS IF PROPOSED SITE QUALIFICATION FEE WERE IN PLACE DURING 2005–2009 [1]

	Group 1	Group 2	Group 3	Group 4
Event 1 (New) [2]	1	1	.....	1
Event 2 (Adds) [3]	2	1	2	10
Event 3 (Sold) [4]	3	.....	1	.....
Total Events	6	2	3	11
Total cost ($)	30,000	10,000	15,000	55,000
Avg. cost per company per year [5] ($)	600	250	430	1,100

[1] Example Group 1 has 10 companies and total cost is calculated over 5 years. Avg cost/company/year = $30000/(10 co)(5 yr).
[2] Event 1—Company becomes an approval holder for the first time.
[3] Event 2—Company moves to or adds a new production site.
[4] Event 3—Company is sold and production moves to a new site.
[5] Reflects occurrence of events within each group in NIOSH's internal certification data.

As discussed above, financial information from the small respirator manufacturers is difficult to discover, as many of these companies are privately held and are not required to file public financial statements. The only component of total revenues that is publically available is salary data. Attempts to determine the other production costs and/or the levels of profits for these companies did not generate reliable or consistent data. In order to estimate the revenues of these companies, statistics from the 2007 Economic Census for NAICS code 339113 were used. As a base for the revenues, it was assumed that the company needed, at a minimum, to cover the cost of their staff. Staffing levels were placed at the smallest likely levels for each size group.

As can be seen in Table 11, below, even using the limited estimator of salaries as a surrogate for total revenues, the cost of the proposed rule does not, on average, reach the HHS threshold of more than 3 percent of revenues for the proposed rule to be considered significant for any of the groups of companies.

TABLE 11—ECONOMIC IMPACT: FEES AS PERCENTAGE OF REVENUE

	Group 1	Group 2	Group 3
Number of employees	1–50	51–250	251–500
Econ. Census Table	5–9 employees	50–99 employees	250–499 employees
Management salary/year	$70,000	$64,200	$72,800
Production wages/year	$31,000	$30,400	$41,900
Management percent of employees	35.7%	35.2%	36.5%
Number of management staff/number of production employees	1/2 (3 total)	18/33 (51 total)	92/159 (251 total)
Total salaries/company	$132,000	$2,160,000	$13,400,000
Total proposed fees (ref. Tables 7 and 9)	$2,940	$9,595	$18,740

TABLE 11—ECONOMIC IMPACT: FEES AS PERCENTAGE OF REVENUE—Continued

	Group 1	Group 2	Group 3
Fees as percentage of revenues	2.2	0.44	0.14

However, because the usage of NIOSH services varies markedly from company to company, and even from year to year for any specific company, it is difficult to determine whether or not the proposed rule could, sporadically, have a significant impact on individual companies. We request input from the regulated manufacturers on the accuracy of our estimates and ask that they provide data regarding the economic impact of this proposed rule.

The RFA requires that the initial regulatory flexibility analysis describe significant alternatives to the rule proposed in this document. HHS has identified two alternatives in addition to the proposed increase in respirator fees on a test-by-test basis: (1) Retain the current fee and fee structure; or (2) increase the fees themselves.

Alternative 1: Retain the Current Fees and Fee Structure

HHS could continue to use the current fees and fee structure. However, those fees have been in effect since 1972 and return only 10 to 20 percent of the annual costs associated with providing initial certification and testing activities. This does not meet the cost needs of the NIOSH certification and testing programs, and does not meet the specifications of the OMB Circular which requires NIOSH to recover all of these costs. Hence, HHS has chosen not to pursue this alternative.

Alternative 2: Retain the Current Fee Structure and Increase the Fees

HHS could maintain the current fee structure but increase the fees to cover current NIOSH costs. Typically, small companies have simple approval requests with few testing requirements. Likewise, small companies typically have a limited number of existing approvals requiring certification maintenance activities by NIOSH (see Table 6, above). The current fee structure distributes the cost burden equally across applicants despite the higher level of service provided to large companies with higher numbers of applications and approvals. The effect of the current fee structure is that small companies receive fewer tests and maintain fewer approvals for the same fixed application fee than do the large companies. This puts small companies at a disadvantage. HHS has chosen not to pursue this alternative.

Proposed Rule: Modify Both the Fees and the Fee Structure To Reflect Actual Usage of NIOSH Services

As proposed here, HHS could break up the fees into assignable services which reflect actual testing, certification and maintenance costs for respirator approvals. These fees are discussed in detail above and include fees for: (1) Testing; (2) application requests; (3) approvals; (4) modifications; (5) maintenance; and (6) site qualification. This alternative increases fees to all business groups, but does so in a graduated way which minimizes the burden on the small companies. Projected fees increase by 175 percent, 355 percent and 340 percent, respectively, for the smallest to largest groups of small companies. Projected fees increase by 1560 percent for the group of large companies. The proposed rule would also allow NIOSH to fully recover its costs associated with respirator testing and certification, as required by the Circular. Therefore, HHS has chosen to pursue this alternative.

Based on the analysis provided above, HHS believes that the proposed rule would not have a significant economic impact on a substantial number of small businesses.

C. Paperwork Reduction Act of 1995

The Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* requires an agency to invite public comment on and to obtain OMB approval of any regulation that requires 10 or more people to report information to the agency or to keep certain records.

NIOSH has obtained approval from OMB to collect information from respirator manufacturers under ''Information Collection Provisions in 42 CFR Part 84—Tests and Requirements for Certification and Approval of Respiratory Protective Devices'' (OMB Control No. 0920–0109, expiration date August 31, 2014), which covers all information collected under 42 CFR Part 84. The information NIOSH would collect under this rule does not differ substantially from the information presently collected from respirator manufacturers who obtain NIOSH certification of their products; nor would there be an increase in the reporting burden on respirator manufacturers.

D. Small Business Regulatory Enforcement Fairness Act

As required by Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), HHS would report to Congress the promulgation of a final rule, once it is developed, prior to its taking effect. The report would state that HHS has concluded that the rule is not a ''major rule'' because it is not likely to result in an annual effect on the economy of $100 million or more.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 *et seq.*) directs agencies to assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector ''other than to the extent that such regulations incorporate requirements specifically set forth in law.'' For purposes of the Unfunded Mandates Reform Act, this proposed rule does not include any Federal mandate that may result in increased annual expenditures in excess of $100 million by state, local or tribal governments in the aggregate, or by the private sector, adjusted annually for inflation. For 2011, the inflation adjusted threshold is $136 million.

F. Executive Order 12988 (Civil Justice)

This proposed rule has been drafted and reviewed in accordance with Executive Order 12988, Civil Justice Reform and will not unduly burden the federal court system. NIOSH has provided a fee structure that would apply uniformly to all applicants. This proposed rule has been reviewed carefully to eliminate drafting errors and ambiguities.

G. Executive Order 13132 (Federalism)

HHS has reviewed this proposed rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' The proposed rule does not ''have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

H. Executive Order 13045 (Protection of Children From Environmental Health Risks and Safety Risks)

In accordance with Executive Order 13045, HHS has evaluated the environmental health and safety effects of this proposed rule on children. HHS has determined that the proposed rule would have no effect on children.

I. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)

In accordance with Executive Order 13211, HHS has evaluated the effects of this proposed rule on energy supply, distribution, or use because it applies to the underground coal mining sector since coal mine operators are consumers of respirators. The proposed rule is unlikely to affect the cost of respirators used in coal mines and hence is not likely to have ''a significant adverse effect on the supply, distribution, or use of energy.'' Accordingly, this proposed rule does not constitute a ''significant energy action'' Under E.O. 13211 and requires no further Agency action or analysis.

J. Plain Writing Act of 2010

Under Public Law 111–274 (October 13, 2010), executive Departments and Agencies are required to use plain language in documents that explain to the public how to comply with a requirement the Federal Government administers or enforces. HHS has attempted to use plain language in promulgating the proposed rule consistent with the Federal Plain Writing Act guidelines.

Proposed Rule

List of Subjects in 42 CFR Part 84

Fees, Mine safety and health, Occupational safety and health, Personal protective equipment, Respirators.

For the reasons discussed in the preamble, the Department of Health and Human Services proposes to amend 42 CFR Part 84 as follows:

PART 84—APPROVAL OF RESPIRATORY PROTECTIVE DEVICES

■ 1. The authority citation for part 84 is amended to read as follows:

Authority: 29 U.S.C. 651 *et seq.;* 30 U.S.C. 3, 5, 7, 811, 842(h), 844; 31 U.S.C. 9701.

Subpart A—General Provisions

■ 2. In § 84.2, remove the alphabetical paragraph designations, arrange definitions in alphabetical order, and add in alphabetical order a definition for ''National Personal Protective Technology Laboratory'' to read as follows:

§ 84.2 Definitions.

* * * * *

National Personal Protective Technology Laboratory means the National Personal Protective Technology Laboratory, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services, P.O. Box 18070, 626 Cochrans Mill Road, Pittsburgh, PA 15236.

* * * * *

Subpart B—Application for Approval

■ 3. In § 84.10, revise paragraphs (b), (c), and (d) to read as follows:

§ 84.10 Application procedures.

* * * * *

(b) Applications shall be submitted to Records Room, National Personal Protective Technology Laboratory, P.O. Box 18070, 626 Cochrans Mill Road, Pittsburgh, PA 15236.

(c) Except as provided in § 84.64, the examination, inspection, and testing of all respirators shall be conducted by the National Personal Protective Technology Laboratory.

(d) Applicants, manufacturers, or their representatives may visit or communicate with the National Personal Protective Technology Laboratory in order to discuss the requirements for approval of any respirator or the proposed designs thereof. No charge shall be made for such consultation and no written report shall be issued to applicants, manufacturers, or their representatives by the Institute as a result of such consultation.

* * * * *

■ 4. In § 84.12, revise paragraph (b) to read as follows:

§ 84.12 Delivery of respirators and components by applicant; requirements.

* * * * *

(b) The applicant shall deliver, at his or her own expense, the number of completely assembled respirators and component parts required for testing, to the National Personal Protective Technology Laboratory.

* * * * *

■ 5. Revise subpart C as follows:

Subpart C—Fees

Sec.
84.19 Applicability
84.20 Establishment of fees.
84.21 Fee calculation.
84.22 Fee administration.
84.23 Fee revision.
84.24 Authorization for additional tests and fees.

Subpart C—Fees

§ 84.19 Applicability.

(a) For respirator manufacturers that intend to apply for a respirator certificate of approval under part 84, the provisions of Part 84 subpart C are applicable on [DATE 30 DAYS AFTER FINAL RULE PUBLICATION IN THE **Federal Register**.]

(b) For current approval holders, the records maintenance fee specified in ''Respirator Certification Fee Schedule A—Administrative Fees'' is applicable on [DATE 4 MONTHS AFTER FINAL RULE PUBLICATION IN THE **Federal Register**.]

(c) Fees for site audits are effective [DATE OF FIRST OCTOBER 1 THAT OCCURS MORE THAN 4 MONTHS AFTER FINAL RULE PUBLICATION IN THE **Federal Register**.]

§ 84.20 Establishment of fees.

(a) This section establishes a system under which NIOSH charges a fee for services provided to applicants under 42 CFR part 84. This section specifies the purposes for which fees shall be assessed and the cost factors for such assessments.

(b) Fees will be charged for:

(1) Application processing under this Part by engineers, technicians and other specialists, including administrative review of applications, analysis of drawings, technical evaluation, testing, test set up and tear down, and consultation on applications, clerical services, computer tracking and status reporting, records control and security and document preparation directly supporting application processing;

(2) A proportionate share of management, administration and operation of the NIOSH organizational unit that conducts application processing;

(3) Amortization of facility improvements and depreciation of buildings and equipment used for testing and evaluation or otherwise directly associated with application processing;

(4) Initial review and approval, as specified under 42 CFR part 84 subpart E—Quality Control of this Part, of manufacturing facilities that may be used to manufacturer respirators;

(5) Quality site audits to verify conformance to the requirements of 42 CFR 84.33, 84.40, 84.41, 84.42, 84.43.; and

(6) Product audits to verify the performance of commercially available

respirators which have been granted a NIOSH certificate of approval.

(c) Fees will not be charged for:

(1) Technical assistance not related to processing an approval application;

(2) Technical programs including development of new technology programs;

(3) Participation in research; and

(4) Regulatory review activities, including participation in the development of health and safety standards, regulations and legislation.

§ 84.21 Fee calculation.

(a) This section provides the direct and indirect costs of NIOSH's services.

(b) Upon completion of an initial administrative review of the application, NIOSH will calculate a fee estimate for each application, including the maximum cost of conducting additional tests under § 84.24 of this part, and will provide that estimate, with payment details, to the applicant. NIOSH will begin the technical evaluation once the applicant accepts the terms of the fee estimate and authorizes payment. The fee estimate will be derived using the current schedules of fees published by NIOSH in the **Federal Register** and on the NIOSH Web site at *http://www.cdc.gov/niosh/npptl/default.html.*

(c) If NIOSH determines that actual costs for application processing and related testing will exceed the fee estimate provided to the applicant, NIOSH will provide to the applicant a revised fee estimate for completing the application review. The applicant will have the option of either withdrawing the application and paying for NIOSH services already performed or authorizing payment of the revised estimate, in which case NIOSH will continue the application review and related testing.

(d) If the actual cost of processing the application is less than the fee estimate NIOSH provided to the applicant, NIOSH will charge the actual cost.

(e) If the applicant withdraws an application, the applicant shall pay for services already performed by NIOSH for the application review. Such services shall include any administrative work (including any administrative work to process the withdrawal), and any examinations, inspections, or tests performed pursuant to such application. Withdrawal of an application shall be effective on the first business day following the date NIOSH receives a withdrawal notice from the applicant in writing. Withdrawal notices shall be submitted to NIOSH only at the application address specified under § 84.10 of this part.

§ 84.22 Fee administration.

(a) Applicants will be billed for all application fees when processing of the application is completed or the application is withdrawn. Invoices will contain specific payment instructions, including the address to mail payments and authorized methods of payment.

(b) Applicants who hold active certificates of approval will be billed by NIOSH annually or as appropriate for any applicable maintenance fees. Such maintenance fees, where applicable, are specified in the current schedule of fees published by NIOSH in the **Federal Register** and on the NIOSH Web site at *http://www.cdc.gov/niosh/npptl/default.html*.

(c) NIOSH reserves the right to impose sanctions for any missed payment, and will administer such penalties after assessing the circumstances of the manufacturer and the needs of other stakeholders. Sanctions may include but are not limited to:

(1) Refusal to accept future applications for approval;

(2) Stop-sale of all approved product; and

(3) Engaging appropriate government authorities to initiate debt collection procedures for the unpaid fees.

§ 84.23 Fee revision.

(a) Each fee schedule shall remain in effect for at least 1 year and shall be revised at least once every 5 years.

(b) Updated fee schedules shall be published in the **Federal Register** and posted on the NIOSH Web site at *http://www.cdc.gov/niosh/npptl/default.html*.

(c) The current fee schedules shall remain in effect until NIOSH publishes new fee schedules in the **Federal Register** as specified under paragraph (b) of this section.

§ 84.24 Authorization for additional tests and fees.

NIOSH shall conduct any examination, inspection, or test it deems necessary to determine the quality and effectiveness of any respirator submitted to NIOSH for the purposes of seeking a certificate of approval. The costs of such examinations, inspections, or tests shall be paid by the applicant prior to issuance of a certificate of approval for the subject respirator.

Subpart G—General Construction and Performance Requirements

■ 7. In § 84.66, revise paragraph (b) to read as follows:

§ 84.66 Withdrawal of applications.

* * * * *

(b) Upon the receipt of a written request from the applicant for the withdrawal of an application, NIOSH shall bill the applicant based on the fee calculated, as specified under § 84.21(e) of this part.

Subpart N—Special Use Respirators

§ 84.258 [Removed]

■ 8. Remove § 84.258.

Subpart KK—Dust, Fume, and Mist; Pesticide; Paint Spray; Powered Air-Purifying High Efficiency Respirators and Combination Gas Masks

§ 84.1102 [Removed]

■ 9. Remove § 84.1102.

Dated: March 20, 2013.

Kathleen Sebelius

Secretary, Department of Health and Human Services.

[FR Doc. 2013–06914 Filed 3–26–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3900, 3920, and 3930

[LLWO–3200000 L13100000.PP0000 L.X.EMOSHL000.241A]

RIN 1004–AE28

Oil Shale Management—General

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) is proposing to amend the BLM's commercial oil shale regulations by revising these regulations in order to address concerns about the royalty system in the existing regulations and to provide more detail to the environmental protection requirements.

DATES: Send your comments to reach the BLM on or before May 28, 2013. The BLM will not necessarily consider any comments received after the above date in making its decision on the final rule.

ADDRESSES: Mail: Director (630) Bureau of Land Management, U.S. Department of the Interior, Mail Stop 2143LM, 1849 C St. NW., Washington, DC 20240, Attention: 1004–AE28. Personal or messenger delivery: U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134 LM, Attention: Regulatory Affairs, Washington, DC 20003. Federal eRulemaking Portal: *http://*

www.regulations.gov. Follow the instructions at this Web site.

FOR FURTHER INFORMATION CONTACT: Mitchell Leverette, Chief, Division of Solid Minerals, at (202) 912–7113 for issues related to the BLM's commercial oil shale leasing program or Ian Senio, Chief, Division of Regulatory Affairs at (202) 912–7440 for regulatory process issues. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339, 24 hours a day, 7 days a week to contact the above individuals.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Discussion of the Proposed Rule
IV. Procedural Matters

I. Public Comment Procedures

If you wish to comment, you may submit your comments by any one of several methods: You may mail comments to Director (630), Bureau of Land Management, U.S. Department of the Interior, Mail Stop 2143LM, 1849 C St. NW., Washington DC 20240, Attention: 1004–AE28. You may deliver comments to U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Attention: Regulatory Affairs, Washington, DC 20003; or you may access and comment on the proposed rule at the Federal eRulemaking Portal by following the instructions at that site (see **ADDRESSES**). Written comments on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposed rule that the comment is addressing. The BLM need not consider or include in the Administrative Record for the proposed rule comments that it receives after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**). Comments, including names and street addresses of respondents, will be available for public review at the U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Washington, DC 20003 during regular hours (7:45 a.m. to 4:15 p.m.) Monday through Friday, except holidays. They also will be available at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions at this Web site.

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

II. Background

Advance Notice of Proposed Rulemaking

The BLM published in the **Federal Register** an advance notice of proposed rulemaking (ANPR) on August 25, 2006 (71 FR 50378). The ANPR requested public comments on key components to be considered in the development of a commercial oil shale leasing and development program. On September 26, 2006, the BLM published in the **Federal Register** a notice reopening and extending the comment period on the ANPR (71 FR 56085). The BLM received 48 comment letters on the ANPR and considered those comments in developing the proposed and final rules.

Proposed 2008 Rule

On July 23, 2008, the BLM published in the **Federal Register** a proposed rule entitled Oil Shale Management—General (73 FR 42926). The comment period for the proposed rule closed on September 22, 2008. The BLM received over 75,000 comment letters on the proposed rule from individuals, Federal and state governments and agencies, interest groups, and industry representatives. The BLM considered those comments in developing the final rule.

Final 2008 Rule and This Proposal

On November 18, 2008, the BLM published in the **Federal Register** the final oil shale regulations (73 FR 69414). The regulations were required by Section 369 of the Energy Policy Act of 2005 (42 U.S.C. 15927) (EPAct). Section 369 addresses oil shale development and directs the Secretary of the Interior (Secretary) to establish regulations for a commercial leasing program. The Mineral Leasing Act of 1920 (30 U.S.C. 241(a)) (MLA) also authorizes the BLM to lease oil shale resources on BLM-managed public lands. Additional statutory authorities for the 2008 regulations and for the amendments proposed in this notice are:

(1) Section 32 of the Mineral Leasing Act of 1920 (30 U.S.C. 189);

(2) Section 10 of the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 359); and

(3) Section 310 of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1740).

For additional information on the ANPR, the 2008 proposed rule, and the final rule, please see the above-referenced **Federal Register** notices.

After publication of the final rule in 2008, the regulations were challenged in Federal court. As part of the settlement agreement, the BLM agreed to propose certain revisions to the regulations, as presented below, relating to the royalty rate and other environmental protection requirements applicable to commercial oil shale leasing, in addition to clarifying certain other regulatory provisions. This proposed rule would revise the BLM's oil shale leasing regulations at 43 CFR parts 3900, 3920, and 3930.

Programmatic Environmental Impact Statement

On November 28, 2008, the BLM published in the **Federal Register** a Notice of Availability of the Approved Resource Management Plan Amendments/Record of Decision (ROD) for Oil Shale and Tar Sands Resources to Address Land use Allocations in Colorado, Utah, and Wyoming and the Final Programmatic Environmental Impact Statement (EIS) (73 FR 72519). The amendments and ROD expanded the acreage potentially available for commercial tar-sands leasing and amended 10 Resource Management Plans (RMP) in Utah, Colorado, and Wyoming to make approximately 1.9 million acres of public lands potentially available for commercial oil shale development and 431,224 acres potentially available for tar sands leasing and development. The oil shale resources are found in the Piceance and Washakie Basins in Colorado, the Uintah Basin in Utah, and the Green River and Washakie Basins in Wyoming. The tar sands resources are found in certain sedimentary provinces in the Colorado Plateau in Utah.

The Programmatic EIS summarized information on oil shale and tar sands technologies and their potential environmental and socio-economic impacts, along with potential mitigating measures that would be evaluated and applied when subsequent site-specific National Environmental Policy Act (NEPA) analysis is undertaken for lease issuance or project approval.

Concurrently with its review of the 2008 final oil shale regulations, the BLM has undertaken a new public planning process related to oil shale and tar sands. Specifically, on April 14, 2011, the BLM published in the **Federal Register** a Notice of Intent to Prepare a

Programmatic Environmental Impact Statement (EIS) and Possible Land Use Plan Amendments for Allocation of Oil Shale and Tar Sands Resources on Lands Administered by the BLM in Colorado, Utah, and Wyoming (76 FR 21003). On February 6, 2012, the BLM published in the **Federal Register** a Notice of Availability of the Draft Programmatic Environmental Impact Statement for Allocation of Oil Shale and Tar Sands Resources on Lands Administered by the Bureau of Land Management in Colorado, Utah, and Wyoming (77 FR 5833). In addition to announcing the opening of the 90-day comment period, the notice provided background information on the Draft Programmatic EIS and stated that the BLM planned to hold public meetings to provide an overview of the Draft Programmatic EIS, respond to questions, and take written comments.

The BLM held Open House meetings during March 2012 to provide additional information on the Draft PEIS. During the comment period that closed on May 4, 2012, approximately 160,000 comment letters were received. Comments on the Draft PEIS received from the public and cooperating agencies, other federal agencies, as well as internal BLM review, were considered and incorporated, as appropriate, into the proposed plan amendments. The proposed plan amendments in the Final EIS would revise the current land use plans in the study area, which describe land allocations analyzed in the 2008 PEIS and approved in the subsequent Record of Decision.

The BLM published the notice of availability of the Final PEIS on November 9, 2012. This began both the 30-day protest period, which ended December 10, 2012, and the 60-day Governor's Consistency Review, which ended January 9, 2013.

The BLM received seventeen protest letters, including 1 from the State of Utah, 5 from county governments, 6 from industry-affiliated groups or companies, and 5 from environmental groups. Major protest issues raised by government and industry interests relate to: the rationale and need for revising decisions of the 2008 PEIS; the proposed reduction in the amount of lands available for leasing; the proposed requirement for Research, Development, and Demonstration (R, D and D) before issuance of commercial leases; the consideration of lands with wilderness characteristics; the consideration of sage-grouse habitat inventories and related State policies; and the consideration of new oil shale technologies in the PEIS analysis.

Major protest issues raised by environmental groups relate to the adequacy of the NEPA analysis, particularly impacts related to climate change, air quality, cultural resources, water resources, and cumulative impacts.

The BLM answered the protests on March 23, 2013 and responded to the Governor's Consistency Review letters on February 6, 2013. The Record of Decision (ROD) was signed on February 22, 2013.

Oil Shale Research, Development, and Demonstration (R, D and D) Program

First Round

The BLM's Oil Shale R, D and D program began on June 9, 2005, with a call for nominations published in the **Federal Register** (70 FR 33753). The BLM received 20 nominations and after intense review, six tracts of 160 acres each were determined to be suitable for R, D and D. These six tracts were evaluated under NEPA. On January 1, 2007, five R, D and D leases were issued in Colorado and on July 1, 2007, one lease was issued for BLM lands in Utah. These were the first R, D and D leases issued for public lands and the first Federal oil shale leases issued in 35 years. Most of the six leases are currently in various stages of testing and research for the potential production of oil shale resources.

Second Round

On November 3, 2009, the BLM published a Notice in the **Federal Register** (74 FR 56867) calling for nominations for a second round of oil shale R, D and D leasing. The BLM received three nominations—two in Colorado and one in Utah. The three nominations were reviewed by an Interdisciplinary Review team to determine the:

(1) Potential for the proposal to advance the knowledge of effective technology;

(2) Economic viability of the applicant; and

(3) Means of managing the environmental effects of the proposed oil shale technology.

The Interdisciplinary Review Team found that all three nominations adequately addressed the evaluation criteria, and, on October 19, 2010, the proponents were notified that their nominations would be forwarded for NEPA review. The two Colorado tracts were evaluated under NEPA and leases were issued effective December 1, 2012. The Utah nomination was canceled and the case closed on December 7, 2012, because the proponent failed to initiate the NEPA process.

III. Discussion of the Proposed Rule

This proposed rule provides the BLM with an opportunity to reconsider certain portions of the 2008 regulations, which were challenged in Federal court. As part of the settlement agreement, the BLM agreed to propose specific revisions to the 2008 regulations, as presented below, to address the royalty rate and certain environmental protection requirements applicable to commercial oil shale leasing.

In this rulemaking proceeding, the BLM will consider several options for amending the current royalty rates for commercial oil shale production. The BLM will particularly consider whether a single royalty rate or rate structure should be set in advance in regulation to provide greater certainty to potential lessees or whether some administrative flexibility may be retained to make adjustments to royalty terms after more is known about the costs and resource impacts associated with emerging oil shale technologies, whether future applications to lease should include specified resource-protection plans, and whether other aspects of the regulations should be clarified.

The proposed revisions are intended to clarify specific provisions, to ensure that the royalty rate provides a fair return to the American taxpayer while encouraging the development of Federal oil shale resources, and that adequate measures are in place to protect the environment.

Section 3903.52 Production royalties

The Energy Policy Act of 2005 (Section 369(o)) directs the agency to establish royalties and other payments for oil shale leases that ''shall

(1) Encourage development of the oil shale and tar sands resources; and

(2) Ensure a fair return to the United States.''

The BLM extensively discussed the issue of the royalty rates for commercial oil shale production in the preamble to the 2008 oil shale rules. See 73 FR at 69419–69429. Those rules, which are currently in effect, set the royalty rate at 5 percent for the first 5 years of commercial production and increases it by 1 percent each year starting with the sixth year of commercial production, reaching a maximum royalty rate of 12 ½ percent in the thirteenth year of commercial production.

Notwithstanding the 2008 analysis, there are some concerns that cause the BLM to revisit the issue. On the one hand, the Federal lands open for oil shale leasing in Colorado, Utah, and Wyoming have, in many locations, vast quantities of oil shale per surface acre.

If the royalty rates were set too low and the industry were to develop a highly efficient technology, then there could be immense private profits from Federal oil shale leases without a fair return to the American people.

On the other hand, as has been previously explained, oil shale is a class of rocks such as marlstone containing not oil, but kerogen. See 73 FR 69414. Oil shale is not like any of the shales or ''tight'' formations found in many parts of the United States that contain oil or gas that can be produced by hydraulic fracturing. All known technologies to convert the kerogen to liquid hydrocarbons require significant amounts of energy. Thus, there is a reasonable likelihood that developers will continue to view commercial oil shale production as a more expensive prospect than competing conventional oil and gas projects. If the royalty rates are set too high, they could discourage development of the oil shale resources.

None of the R, D and D leases issued in 2006 and 2007 have yet demonstrated a commercially viable technology. The recently issued R, D and D leases are probably years away from demonstrating technologies. Although there are entities conducting various types of activities on other oil shale lands in the United States, the BLM does not have data showing that oil shale development is commercially viable at this time. Thus, even though the existing royalty rates might be appropriate for the oil shale industry when it comes into being, at present the BLM is faced with uncertainty.

Pursuant to the settlement agreement, the BLM is proposing to remove the royalty rates currently in section 3903.52(b). Additionally, the BLM is proposing that the royalty rate will be set by the BLM in the notice of sale or, for R, D and D conversion, it will be established by the Secretary of the Interior. The BLM has not yet made a decision on what would replace the current rule's royalty rates, but rather is seeking comment on several different options as set forth below.

Option 1. Invite Comment on Proposed Lease Terms in a Proposed Notice of Lease Sale

Under this option, the BLM would first publish a proposed notice of sale or conversion to a commercial lease for a period of not less than 30 days. That proposed notice would include all proposed lease terms and stipulations, including proposed royalty and rental rates. It also would include an explanation of how the BLM determined the proposed royalty rate. This would give interested parties and the public an opportunity to comment on all the proposed terms, including the proposed royalty rate. Under this option and so as to allow adequate time for both comment and consideration of the comments, the BLM would amend Section 3924.5 to require at least 60 days between publication of the proposed notice of sale and the notice of sale.

Option 2. Invite Public Comment Using Coal Lease Sale Process

As an alternative to publishing a proposed notice of sale, the BLM specifically seeks comments on a possible alternative procedure that would be modeled after a provision in the Federal coal leasing regulations at 43 CFR 3422.1. Instead of publishing a proposed notice of sale, the BLM would, at least 30 days before the notice of sale, solicit public comment on the fair market value of, and expected recovery from, the oil shale lands proposed to be offered for lease and on what royalty rate and other lease terms or stipulations commenters believe should be required. The authorized officer would prepare a report evaluating the comments and containing his or her recommendations for the minimum bid and for the royalty rate and other lease terms to be included in the leases offered.

Option 3. Sliding Scale Royalty Based on the Market Prices of Oil and Gas

In the 2008 proposed oil shale rule, the BLM considered and sought comment on a sliding scale royalty. That approach was not adopted in the final 2008 rule, but in light of the need to reconsider the existing royalty rates under the terms of the settlement, we would like to reconsider this option and are seeking public comment on the best approach to implementing a sliding scale royalty structure.

Although the BLM has expressed concerns in the past about the complexity of administering certain sliding scale royalty proposals, we recognize that a sliding scale royalty could prove useful in meeting the dual goals of encouraging production and ensuring a fair return to taxpayers from future oil shale development.

One of the concerns that has been expressed regarding oil shale development is that potential oil shale developers may be reluctant to make the large upfront investments required for commercial operations if they believe there is a chance that crude oil prices might drop in the future below the point at which oil shale production would be profitable (i.e., competitive with conventional oil production). A sliding scale royalty system could allow the government to at least partially mitigate this development risk by providing for a lower royalty rate if crude oil prices fall below a certain price threshold.

The basic concept is that in return for the government accepting a greater share of the price risk that an operator faces when prices are low (in the form of a lower royalty), the government would receive a greater share of the rewards (through a higher royalty) when prices are high.

The BLM has not decided on the specific parameters of a sliding scale royalty system, but is considering a simplified two- or three-tiered system based on the current royalty rates already in effect for conventional fuel minerals. The applicable royalty rate would be determined based on market prices of competing products (e.g., crude oil and natural gas) over a certain time period. In a two-tiered system, if prices remain below a certain point during the applicable period, the royalty rate on oil shale products would be the lower of two options. If prices are above that range for the period, a higher royalty would be charged. In a three-tiered system, a third royalty rate would apply if prices rise above a second price threshold during the applicable period.

The BLM seeks comment on the specific parameters that could be applied to a sliding scale royalty system, should the BLM choose to adopt such a system in the final rule. More specifically, the BLM would like feedback on the following questions:

1. Should a sliding scale system include two or three tiers? What would be appropriate royalty rates under a two-tiered system recognizing the dual goals of encouraging production and achieving a fair return to the government? What rates would be appropriate for a three-tier system?

2. What are appropriate price thresholds to apply to each tier? Should the thresholds be fixed (in real dollar terms), or should they float relative to a published index?

3. Should the sliding scale apply to all products, or should nonfuel products pay a traditional flat rate?

4. Are there other ways to simplify a sliding scale royalty system so as to reduce the administrative costs for the BLM, the Office of Natural Resources Revenue, and producers while still providing a reasonable assurance that the public is receiving its fair share of revenue from production?

Option 4. Establish a Minimum Royalty of 12.5% in Regulation, With Secretarial Flexibility To Establish a Higher Rate Later

Under this option, a minimum royalty of 12.5% would be established to address concerns about the existing rate and implement the terms of the settlement agreement. The minimum royalty rate at 12.5%, the same rate as currently applied in the BLM's oil and gas program, is being considered as it is contemplated that the primary products produced from oil shale will compete directly with those from onshore oil and gas production. However, the Secretary would have the authority to establish a higher rate, if determined to be appropriate, without completing a new rulemaking. This option would provide flexibility for the Secretary to adapt and respond accordingly to new information, such as emerging oil shale technologies and future oil shale production cost information, and changes to the price of this commodity, in order to help assure a fair return to the United States. Establishing a minimum royalty would be consistent with how other conventional fuels (e.g., oil, gas, and coal) are treated under existing statutes and regulations.

In order to promote transparency in connection with the proposed change to allow a higher royalty rate to be established at a later time, the BLM would add a requirement to first publish a proposed notice of sale. That proposed notice would include all proposed lease terms and stipulations, including proposed royalty and rental rates. It also would include an explanation of how the BLM determined the proposed royalty rate.

The notice would invite comment on the proposed lease terms for a period of not less than 30 days. This would give interested parties and the public an opportunity to comment on all the proposed terms, including the proposed royalty rate. So as to allow adequate time for both comment and consideration of the comments, the BLM would require at least 60 days between publication of the proposed notice of sale and the notice of sale.

The BLM also invites comments on variations of the aforementioned options, including setting a minimum royalty rate as part of options 1 and 2 or not setting a minimum royalty rate, as well as any other royalty systems rates that would meet the dual requirements of the EPAct to encourage production and ensure a fair return to the public. Comments with technical economic data and analysis would be most useful. The final rule will include a royalty provision that will be informed by public comments the BLM receives as a result of this proposed rule.

Section 3925.10 Award of Lease

Section 3925.10(a) currently provides that a lease will be awarded to the qualified bidder submitting the highest bid that meets or exceeds the BLM's estimate of fair market value (FMV). The section would be revised by substituting the word ''may'' for the word ''will'' in the first sentence to clarify that issuing a lease is a discretionary action on the part of the BLM, rather than mandatory. In the case of a competitive lease sale, the BLM may award a lease to the highest qualified bidder, but has no obligation to do so (see 30 U.S.C. 241(a)(1).

Paragraph (a) would also be revised to add that the BLM would not issue a commercial lease unless it determines that oil shale operations could occur without unacceptable environmental risk (UER). This proposal is one of those required by the settlement agreement. Conditioning the issuance of a commercial oil shale lease on the BLM's determination that operations could occur without UER would add a new standard for lease issuance. The paragraph would also be revised to add the requirement that commercial oil shale leases would be issued only under the procedures in 43 CFR part 3900.

In addition, the BLM proposes to employ the UER standard in the context of approval of a Plan of Development (POD), as described in section 3931.10(e), as well as in the context of conversion of an R, D and D lease to commercial operations, as described in section 3926.10(c)(6).

The MLA grants the Secretary, as the Federal land manager, wide latitude in decision making with regard to all leasable minerals. Under the MLA, the decision to withhold issuance of a minerals lease is discretionary, and need not be based upon any particular standard contained in the regulations. Under FLPMA section 302(b), the general environmental standard for managing the public lands is the prevention of unnecessary or undue degradation (UUD). The UER standard proposed in this rule would be one basis for exercising the Secretary's statutory discretion under the MLA and would be in addition to the UUD standard. It would not, however, be the only possible basis for withholding lease issuance, because the Secretary continues to retain his statutory discretion in awarding new leases.

The proposed UER standard should not be confused with assessment or regulation of environmental risk by any other agency, acting under any other statutory or regulatory authority. For instance, the public might be most familiar with the risk assessments that provide the framework for human health and ecosystem health evaluations developed by the Environmental Protection Agency (EPA) under laws that govern hazardous or toxic substances. Such risk assessments characterize the probability of adverse effects from exposure to environmental stressors and differ from the proposed UER standard in that they are quantitative characterizations derived from scientific processes that use statistical and biological models to calculate numerical estimates of ecological and health risks. *See* Office of Emergency and Remedial Response, U.S. EPA, *Risk Assessment Guidance for Superfund Volume I Human Health Evaluation Manual (Part A) Interim Final* (EPA/540/1–89/002) (1989). Available at *http://www.epa.gov/oswer/riskassessment/ragsa/index.htm.* These types of risk assessments are required under environmental statutes such as the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. 6901 *et seq.,* and the Comprehensive Environmental Response Compensation and Liability Act/Superfund Amendments and Reauthorization Act (CERCLA/SARA), 42 U.S.C. 9601 *et seq.,* where they are used to characterize the current and potential threats to human health and the environment from potentially hazardous or toxic substances. *See* e.g., CERCLA/SARA Sections 104, 105(a)(2), 121(b)–(d); 40 CFR 300; EPA, *RCRA Risk Assessment. http://www.epa.gov/oswer/riskassessment/risk_rcra.htm.* Agencies such as the Agency for Toxic Substances and Disease Registry, within the Department of Health and Human Services, as well as the Occupational Safety and Health Administration employ a similar approach with respect to the potentially hazardous or toxic substances whose use and/or regulation is within their purview.

The BLM's implementation of the UER standard in the management of oil shale resources, if adopted, is likely to evolve with its application, but in no event does the BLM intend to impose upon itself the requirement to perform a quantitative risk assessment, as a threshold to exercising its discretion. A quantitative risk analysis under the proposed UER standard could be difficult in the context of decisions on leasing and development where pertinent data and information about potentially catastrophic events and/or the risk of occurrence would not likely

be reasonably available. Because of the nascent character of the oil shale industry and the diverse nature of possible environmental concerns associated with particular oil shale mining operations, risk assessments the BLM would prepare are likely to be qualitative, and involve uncertainty to a greater degree than those developed by EPA with respect to specific hazardous or toxic substances. To assist it in making its determination, the BLM intends that the proponent of a commercial lease demonstrate that future operations would likely occur without UER and that appropriate mitigation would be available to assure that the possible environmental risks remain low.

As an alternative to the proposed UER standard, the BLM also specifically requests comments on whether ''unacceptable environmental consequences'' (UEC) might be a more appropriate standard for issuance of commercial leases in proposed section 3925.10(a), for conversion of R, D and D leases in section 3926.10, and for approval of plans of development in section 3931.10. The standard for conversion in the eight existing R, D and D leases is that commercial operations can occur without UEC. That language originates with a Federal Court of Appeals decision concerning NEPA. See *Sierra Club* v. *Peterson,* 717 F.2d 1409, 1415 (D.C. Cir. 1983). However, while the BLM considers the environmental consequences of its proposed actions, UEC has not been defined or employed as a standard for decision-making by the BLM. It should be noted here that the UEC standard in R, D and D leases would not be interpreted to require the BLM, before it could deny a lease conversion or disapprove a Plan of Development (POD), or condition its approval, to prove that unacceptable consequences would ''with certainty'' occur. Rather than imposing a burden upon the BLM to establish a proposition, the alternative proposal would require the applicant for a lease conversion or POD approval to demonstrate that the proposed operations associated with the lease or plan would not likely result in UEC.

To assist in our decision making, the BLM also invites comment on whether, if UEC were to be adopted as the regulatory standard in lieu of UER, ''environmental consequences'' should be construed consistently with the regulations implementing NEPA and be limited to impacts which are reasonably foreseeable. In addition, we invite comment on whether, if UEC were to be the regulatory standard, ''environmental consequences'' should be construed consistently with the regulations implementing NEPA to include reasonably foreseeable impacts that ''have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason.'' (See 40 CFR 1502.22(b)).

The BLM's review under either UER or UEC could encompass a broad range of considerations appropriate for each particular proposal, which might include such issues as impacts to water resources, wildlife, post-abandonment land uses, air quality, or greenhouse gas emissions including relevant energy balance considerations. Note also that UER, UEC, or any other threshold used in the regulations would not be less protective of the public lands than the ''unnecessary or undue degradation'' standard in Section 302(b) of FLPMA, 43 U.S.C. 1732(b).

In fact, in light of the existence of the FLPMA statutory standard, the BLM may determine that no additional substantive standard is necessary, either for determining whether or not to issue an R, D and D lease, or determining whether or not to approve a POD, or conversion from an R, D and D lease to a commercial lease.

3926.10 Conversion of an R, D and D Lease to a Commercial Lease

Section 3926.10 provides application procedures and requirements to convert R, D and D leases, including preference rights areas, into commercial leases. Paragraph (a) of this section would be expanded to clarify that the BLM may, in its discretion, deny an application to convert an R, D and D lease to a commercial lease based on environmental or other resource considerations. Similarly, paragraph (c) of this section would be expanded by adding a sentence to clarify that the BLM may, in its discretion, deny an application to convert an R, D and D lease based on environmental or other resource considerations. This reference to ''other resource considerations'' reflects the wide latitude afforded the Secretary's discretion under the MLA and FLPMA, as discussed above. Those considerations are likely to depend, in large part, on the specifics pertaining to each project. Some examples of ''other resource considerations'' might include, but are not limited to requirements to: (1) Protect and conserve other mineral resources which may occur in the same lands, such as nahcolite and dawsonite in the ''Multi-mineral zone'' in the White River Field Office area, Colorado; (2) Honor pre-existing rights, such as oil-and-gas leases, mining claims, etc.; (3) Achieve the ultimate maximum recovery of the mineral resources; (4) Prove that commercial quantities of shale oil will be produced from the lease; (5) Consult with State, local, or tribal officials to develop a plan for mitigating the socioeconomic impacts of commercial development.

Considering the various examples of what constitutes ''other resource considerations,'' it may be helpful to further define the term. One alternative is to state, ''other resource considerations pursuant to the terms of that R, D and D lease.'' The BLM seeks comment on this phrase or any other language that the public believes adds clarity to the term.

The last sentence of paragraph (c) would also be revised by adding the words ''in its discretion'' and substituting the word ''may'' for the word ''will.'' These changes to paragraph (c) are intended to clarify that approval of conversion of an R, D and D lease to a commercial lease is a discretionary action on the part of the BLM and is, therefore, not mandatory. Nothing in EPAct's provisions concerning R, D and D leases requires that such leases be converted to commercial leases (see 42 U.S.C. 15927(c)). New paragraphs (c)(6) would require that commercial scale operations be conducted without UER.

Section 3931.10 Exploration Plans and Plans of Development for Mining and In Situ Operations

Section 3931.10 provides requirements for submission of exploration plans and PODs. This rule would revise paragraph (e) by adding a sentence stating that the BLM will not approve a POD unless it determines that operations under the POD can occur without UER.

Additionally, we propose adding a new paragraph (g) to make it clear that the BLM may deny a POD based on environmental or other resource considerations or the BLM may require a modification of or condition a POD to protect the environment or other resources. As noted above, with respect to considerations pertaining to conversion of R, D and D leases, this reference to ''other resource considerations'' as well as, here, ''other resources,'' reflects the wide latitude afforded the Secretary's discretion under the MLA and FLPMA, as discussed above. The reference is broad to reflect that these considerations are likely to depend, in large part, on the specifics pertaining to each project.

Section 3931.11 Content of Plan of Development

Section 3931.11 lists the required contents of a POD. This section would be revised to include additional information that the BLM would require in a POD. For instance, in the surface management regulations at 43 CFR part 3809 there is a similar list of specific information required; however in most program areas, the BLM requests detailed information from private proponents on a project specific basis in order to inform environmental analysis. The new requirements would include submission of a watershed and groundwater-protection plan under new paragraph (h); an airshed review under new paragraph (i); an integrated waste-management plan under new paragraph (j); and an environmental-protection plan under new paragraph (k). The new proposed requirements are intended to ensure that adequate measures are in place to protect the environment.

A watershed and groundwater-protection plan under paragraph (h) would require details on how operations would be conducted in a manner that protects surface and groundwater resources from adverse effects on the quality, quantity, timing, and distribution of water resulting from operations, and how monitoring, adaptive management, and mitigation of adverse impacts would be conducted, both during and after operations.

An airshed review under paragraph (i) is a review of the scientific data and analyses currently available at a reasonable cost relevant to the potential effects of commercial oil shale operations on the air quality of the pertinent airshed. The review would require providing the BLM with useful information to assess the effects of operations on the airshed.

An integrated waste-management plan under paragraph (j) would require information on conducting operations in a manner that would minimize the production of mine waste, and would provide for monitoring, adaptively managing, and mitigating the impacts of waste both during and after operations.

An environmental protection plan under paragraph (k) would be a plan to conduct operations in a manner that would minimize the adverse effects of oil shale operations on the quality of the air and water; wildlife and native plants; and productivity of soils and to also monitor, adaptively manage, and mitigate such adverse effects both during and after operations.

These plans and reviews are intended to facilitate both better decisions by the BLM in reviewing proposed PODs, and better environmental performance of operations under an approved POD. These plans and reviews are likely to be necessary to properly analyze a POD under NEPA, and thus would be required pursuant to 43 CFR 3931.11(k) in most if not all cases, even in the absence of the proposed amendments to section 3931.11.

IV. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

Executive Order 12866 requires agencies to assess the benefits and costs of regulatory actions, and for significant regulatory actions, submit a detailed report of their assessment to the Office of Management and Budget (OMB) for review. A rule may be significant under Executive Order 12866 if it meets any of four criteria. A significant regulatory action is any rule that may:

- Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The proposed regulation would modify the commercial oil shale leasing and management regulations that were promulgated in 2008. The main proposal provisions include changes in the royalty applied to production, changes in the information required prior to authorization, and changes in the standards applied to an authorization.

Royalty payments are recurring income to the government and costs to the operator/lessee. As such, they are transfer payments that do not affect total resources available to society. Changes in the royalty rate have the potential to significantly alter the future distributional effects; however, they would not represent a cost or benefit to the economy. OMB defines ''transfer payment'' to include payments to the government in addition to the unearned payments from the government *(Economic Analysis of Federal Regulations Under Executive Order 12866, January 11, 1996, http://www.whitehouse.gov/omb/inforeg_riaguide*). In addition, the definition OMB uses encompasses the revenue collected through a fee, surcharge, or tax (in excess of the cost of any service provided) as a transfer payment. Since a royalty is not a payment for service, this OMB transfer payment definition holds that a royalty is a transfer payment and is not to be included in the annual effect to the economy calculation. Thus, even though oil shale royalties may someday amount to billions of dollars of annual revenue, that revenue is excluded from the annual effect to the economy calculation because royalties are transfer payments for purposes of this analysis and as defined in OMB guidance.

Royalty income is dependent on how much oil shale may be produced and the market price of the commodity. Currently, no oil shale product is being commercially produced. However, under the existing royalty provision, and using the production projections, production schedule, U.S. Energy Information Administration (EIA) reference oil price, and other assumptions discussed in the agency's economic analysis, for the period of analysis, total royalty payments could have a net present value of $4.4 billion. This analysis depends on production estimates generated by the Task Force on Strategic Unconventional Fuels, called for in the Energy Policy Act of 2005. To the extent that conditions differ from those assumed by the Task Force, actual royalty estimates could be significantly different. Given the range of uncertainties involved in whether or to what extent oil shale development may take place in the future, the BLM has not attempted to project the potential change in these transfer payments due to this rule. The amount of these transfer payments would also be impacted by which, if any, of the royalty options presented in the rule is ultimately selected for inclusion in the final rule. Thus, the BLM cannot at present state what the applicable rate will be to establish the distributional effects.

In addition to the proposed royalty provision, there are a number of provisions addressing information and standards associated with lease issuance and approval of the POD. These changes primarily codify in regulation current BLM practices, procedures, and policies. Assuming compliance with existing practices, procedures, and policies, there should not be any increased costs associated with complying with these proposed changes. As proposed, the BLM will not approve a POD unless it determines that

operations under the plan can occur without UER. Also under consideration is an alternative standard of UEC. How either standard would be implemented may increase costs to both the BLM and the proponent; however, there is no practical way to make defensible estimates concerning the increased costs.

Based on the available information, we estimate the annual effect on the economy of the regulatory changes will be less than $100 million and will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities. This rule will not create inconsistencies or otherwise interfere with an action taken or planned by another agency. This rule would not change the relationships of the oil shale programs with other agencies' actions. This rule does not materially affect the budgetary impact of entitlements, grants, loan programs, or the rights and obligations of their recipients. In addition, the proposed rules do not raise any novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Clarity of Regulations

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. The BLM invites your comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

1. Are the requirements in the proposed regulations clearly stated?
2. Do the proposed regulations contain technical language or jargon that interferes with their clarity?
3. Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
4. Is the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the proposed regulations? How could this description be more helpful in making the proposed regulations easier to understand?

Please send any comments you have on the clarity of the regulations to the address specified in the **ADDRESSES** section.

Small Business Regulatory Enforcement Fairness Act

For a major rule, as defined by the Small Business Regulatory Enforcement Fairness Act (SBREFA), the BLM must prepare an initial regulatory flexibility analysis. For SBREFA, a rule may be major if it meets any of three criteria:

- Have an annual effect on the economy of $100 million or more;
- Create a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or
- Have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

If determined to be a major rule SBREFA requires an agency to prepare an analysis when issuing a proposed rule that will have a significant impact on a substantial number of small entities.

The proposed regulation would modify the commercial oil shale leasing and management regulations that were promulgated in 2008. The main proposal provisions include changes in the royalty applied to production, changes in the information required prior to authorization, and changes in the standards applied to an authorization.

In addition to the proposed royalty provision, there are several provisions addressing information and standards associated with lease issuance and approval of the POD. These changes primarily codify in regulation what are current BLM practices, procedures, and policies. Assuming compliance with existing practices, procedures, and policies, there should not be any increased cost associated with complying with these proposed changes. As proposed, the BLM will not approve a POD unless it determines that operations under the plan can occur without UER. Also under consideration is an UEC standard. How either standard would be implemented may increase costs to both the BLM and the proponent; however, there is no practical way to make defensible estimates concerning the increased costs.

Based on the available information, the BLM estimates the annual effect on the economy of the regulatory changes will be less than $100 million. This rule will not create a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions. In addition, this proposed regulation will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

National Environmental Policy Act (NEPA)

The proposed regulatory amendments are categorically excluded from the requirement to prepare an environmental assessment (EA) pursuant to the regulations at 43 CFR 46.205 and 46.210. Nonetheless, the BLM has prepared an EA (DOI–BLM–WO–3900–2012–0001–EA) to inform the decision-maker and the public. The EA concludes that this proposed rule would not constitute a major Federal action significantly affecting the quality of the human environment under Section 102(2)(C) of NEPA, 42 U.S.C. 4332(2)(C). A detailed statement under NEPA is not required.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires agencies to analyze the economic impact of proposed and final regulations to determine the extent to which there is a significant economic impact on a substantial number of small entities. Executive Order 13272 reinforces executive intent that agencies give serious attention to impacts on small entities and develop regulatory alternatives to reduce the regulatory burden on small entities. When the proposed regulation will impose a significant economic impact on a substantial number of small entities, the agency must evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities. Inherent in the RFA is a desire to remove barriers to competition and encourage agencies to consider ways of tailoring regulations to the size of the regulated entities.

The Small Business Administration (SBA) has developed size standards to carry out the purposes of the Small Business Act; those size standards can be found in 13 CFR 121.201. The SBA defines small entities involved in the oil and gas industry, which includes oil shale, as individuals, limited partnerships, or small companies considered at ''arm's length'' from the control of any parent companies, with fewer than 500 employees. For firms involved in oil and gas field exploration services and other field services SBA defines a small entity as having annual receipts of less than $5 million.

There are currently no active commercial oil shale operations on Federal lands. Six firms hold R, D and D leases. Of those six companies, three are major oil companies, one is a multi-national oil shale company, one is a small mining company, and one is a

small research and development firm. In addition to the current make up of those firms operating on Federal lands, past efforts primarily involved the Federal government or large corporations. Smaller firms were involved, but their involvement was primarily to support larger organizations.

Entities that would be directly affected by this commercial oil shale leasing rule would include most, if not all, firms involved in the exploration and development of oil shale resources on Federal lands. Such firms are a subset of entities involved in the domestic oil shale industry.

The U.S. Census data on firms involved in oil shale research, exploration, and development by number of employees is not available; or at least not available in a form that allows the BLM to separate those firms from the much larger oil and gas industry. Information on firms involved in the oil shale industry is included in the broader categories of Crude Petroleum and Natural Gas Extraction, Support Activities for Oil and Gas Operations, and Petroleum Refineries. Within the Crude Petroleum and Natural Gas Extraction category, over 98 percent of the firms have fewer than 500 employees (U.S. Department of Commerce, Economics and Statistics Administration, U.S. Census Bureau, Number of Firms, Number of Establishments, Employment, and Annual Payroll by Employment Size of the Enterprise for the United States). Seventy-five percent of all firms in the Petroleum Refineries category had fewer than 500 employees. Ninety-two percent of the firms involved in providing oil and gas field service support had average annual receipts of less than $5 million. This data indicates that the preponderance of firms in the domestic oil and gas industry are small entities as defined by the SBA.

With technological advances and favorable market conditions that will support oil shale development, the BLM anticipates an increase in the number of firms involved in oil shale development. However, the number of firms, large or small, involved in oil shale development on Federal lands will likely remain quite limited. Estimates for the size of the industry in the next 30 years range from 3 to 17 operations involved in the extracting and retorting of shale oil. To put these numbers in perspective, in 2009 there were approximately 6,500 establishments directly involved in the extraction of crude oil and natural gas in the United States. This count does not include establishments primarily engaged in performing drilling and support activities for oil and gas operations, which adds an additional 10,000 more establishments to that count.

The BLM expects that future oil shale development will involve both large and small firms. If past development efforts are an accurate indicator of the future, most leasing and development will be led by a large, well-capitalized organization, supported by smaller entities. Given the likely size of the industry that may eventually be involved in the leasing and development of Federal oil shale resources, it is our conclusion that this rule would not impact a substantial number of small entities.

Oil shale development is characterized by high capital investment and long periods of time between expenditure of capital and the realization of production revenues and return on investment. Revenues are uncertain because future market prices for oil shale production and by-products are unknown. Therefore, a key economic barrier to private development is the inability to predict when profitable operations will begin. The economic risk associated with this uncertain outcome is magnified by the unusually large capital exposure, measured in billions of dollars per project, required for development.

There are significant barriers to oil shale development, including technological unknowns and potentially significant environmental impacts. But the proposed regulatory changes, including proposed changes to production royalties, are not likely to impede development or have a significant economic impact on lessees or operators, regardless of the firm's size.

The BLM therefore does not anticipate the proposed rule to have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) the proposed rule would not impose an unfunded mandate on state, local, or tribal governments or the private sector, in the aggregate, of $100 million or more per year; nor would this rule have a significant or unique effect on state, local, or tribal governments. The rule imposes no requirements on any of those entities. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act.

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

This rule is a not a government action capable of interfering with constitutionally protected property rights. A takings implication assessment is not required. The rule would not authorize any specific activities that would result in any effects on private property. Therefore, the Department has determined that the rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The proposed rule 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 levels of government. It would not apply to states or local governments or state or local governmental entities. The management of Federal oil shale leases is the responsibility of the Secretary of the Interior and the BLM. This rule does not alter any lease management or regulatory role of the states or the rules governing revenue sharing with the states. In addition, this rule does not impose any costs on the states. Therefore, in accordance with Executive Order 13132, the BLM has determined that this rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the BLM has determined that this proposed rule would not unduly burden the judicial system and that it would meet the requirements of sections 3(a) and 3(b)(2) of the Order.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found that this rule may include policies that have tribal implications. The rule implements the Federal oil shale leasing and management program, which does not apply on tribal or allotted Indian lands. At present, there are no oil shale leases or agreements on tribal or allotted Indian lands. If tribes or allottees should ever enter into any leases or agreements with the approval of the Bureau of Indian Affairs, the BLM would then likely be responsible for the approval of any proposed operations on Indian oil

shale leases and agreements. In light of this possibility, and because tribal interests could be implicated in oil shale leasing on Federal lands, the BLM has begun consultation on this proposed rule with potentially affected tribes and will continue consulting during the comment period.

Information Quality Act

In developing this rule the BLM did not conduct or use experiments or surveys requiring peer review under the Information Quality Act (Section 515 of Pub. L. 106–554).

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

In accordance with Executive Order 13211, the BLM has determined that the proposed rule would not be likely to have a substantial direct effect on the supply, distribution, or use of energy. Executive Order 13211 requires an agency to prepare a Statement of Energy Effects for a rule that is a significant regulatory action under Executive Order 12866, or any successor order, and is likely to have a significant adverse effect on the supply, distribution, or use of energy.

As discussed earlier in this preamble, under the proposal on future leases, the Secretary is considering several options for replacing the royalty rate structure established by the 2008 final rule. Additional information about oil shale production may be available in the future that would inform the Secretary's decision on royalty rates. The royalty rate and other proposed changes are not anticipated to have a significant negative effect on the economic viability of industry or on the nation's supply, distribution, or use of energy. The BLM believes the proposed rules would not have an adverse effect on the supply, distribution, or use of energy, and therefore has determined that the preparation of a Statement of Energy is not required.

Executive Order 13352, Facilitation of Cooperative Conservation

In accordance with Executive Order 13352, the BLM has determined that this rule would not impede facilitating cooperative conservation; takes appropriate account of and considers the interests of persons with ownership or other legally recognized interests in the land or other natural resources; properly accommodates local participation in the Federal decision-making process; and provides that the programs, projects, and activities are consistent with protecting public health and safety. The proposed revisions to the oil shale regulations are in accordance with the terms of settlement agreement to a lawsuit relating to the 2008 final rule. Several of the proposed revisions are procedural in nature and provide clarification of existing provisions. The proposed rule also includes new environmental protection requirements for plans of development. The proposed rule will not affect opportunities under existing regulatory provisions for governors, state, local, and tribal governments to provide comments prior to the BLM offering the tracts for competitive oil shale leasing.

Paperwork Reduction Act

The proposed rule contains information collection requirements that are subject to review by OMB under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501–3520). The PRA provides that an agency may not conduct or sponsor, and no response is required for, a ''collection of information'' unless it displays a currently valid control number. Collections of information include any request or requirement that an individual, partnership, or corporation obtain information, and report it to a Federal agency (44 U.S.C. 3502(3) and 5 CFR 1320.3(c)). OMB has approved existing information collection requirements associated with the 2008 Oil Shale Final Rule, and has assigned control number 1004–0201 to those requirements.

In accordance with the PRA, the BLM is inviting public comment on proposed new information collection activity for which the BLM is requesting that OMB revise control number 1004–0201, Oil Shale Management (43 CFR parts 3900, 3910, 3920, and 3930) (expiration date January 31, 2015; 1,795 burden hours; and $526,597 non-hour cost burdens). The collection of information under the existing and proposed regulations is required to obtain or retain a benefit in connection with oil shale operations. The BLM is requesting an expiration date of January 31, 2015, which is the same expiration date as the existing control number.

The information collection request for this proposed rule has been submitted to OMB for review under 44 U.S.C. 3504(h) of the PRA. A copy of the request can be obtained from the BLM by telephone request to Mary Linda Ponticelli at (202) 912–7115.

The BLM requests comments to:

- 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.

If you wish to comment on the information collection aspects of this proposed rule, please send your comments directly to OMB via fax or electronic mail:

Fax: Office of Management and Budget, Office of Information and Regulatory Affairs, Desk Officer for the Department of the Interior, fax (202) 395–5806).

Electronic mail: oira_docket@omb.eop.gov. Please indicate ''Attention: OMB Control Number 1004–0201,'' regardless of the method used to submit comments on the information collection burdens. If you submit comments on the information collection burdens, please provide the BLM with a copy of your comments by mail, fax, or electronic mail:

Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW. Room 2134LM, Attention: Jean Sonneman, Washington, DC. 20240.

Fax to: Jean Sonneman at (202) 245–0050.

Electronic mail: Jean_Sonneman@blm.gov.

OMB is required to make a decision concerning the collection of information contained in this proposed rule between 30 to 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it by April 26, 2013.

The new collections of information in the proposed rule would be included in revisions to 43 CFR 3931.11, which lists the required contents of a plan of development. At present, control number 1004–0201 authorizes 308 burden hours and no non-hour costs for each plan of development.

The proposed rule would revise section 3931.11 to require the following additional information in a plan of development:

Proposed section 3931.11(h) would add a requirement for a watershed and groundwater protection plan:

(1) To conduct operations in a manner that protects surface and groundwater resources from adverse effects on the quality, quantity, timing and distribution of water resulting from operations, and

(2) To provide for monitoring, adaptive management, and mitigation of adverse impacts, both during and after operations. This plan would assist the BLM in assessing and managing potential impacts on an ongoing basis.

Proposed section 3931.11(i) would add a requirement for a review of the scientific data and analyses currently available at a reasonable cost, relevant to the potential effects of commercial oil shale operations on the air quality of the pertinent airshed.

Proposed section 3931.11(j) would require an integrated waste management plan:

(1) To conduct operations in a manner that minimizes the production of mine waste, and

(2) To provide for monitoring, adaptive management, and mitigation of adverse impacts, both during and after operations.

Proposed section 3931.11(k) would require an environmental protection plan:

(1) To conduct operations in a manner that minimizes adverse effects of oil shale operations on the:

(a) Quality of the air and water;

(b) Wildlife and native plants; and

(c) Productivity of soils; and

(2) To provide for monitoring, adaptive management, and mitigation of adverse impacts, both during and after operations.

The BLM estimates that the watershed and groundwater protection plan, airshed review, integrated waste management plan, and environmental protection plan that would be required under proposed section 3931.11(h), (i), (j), and (k) would each require 10 hours to prepare/assemble. The proposed revisions to section 3911.11 would increase the burden hours associated with the plan of development from 308 hours to 348 hours.

Authors

The principal authors of this proposed rule are Mitchell Leverette, Mary Linda Ponticelli, Larry Jackson, and Paul McNutt, Division of Solid Minerals (Washington Office) and the BLM's Division of Regulatory Affairs (Washington Office).

List of Subjects

43 CFR Part 3900

Administrative practice and procedure, Environmental protection, Intergovernmental relations, Mineral royalties, Oil shale reserves, Public lands-mineral resources, Reporting and recordkeeping requirements, Surety bonds.

43 CFR Part 3920

Administrative practice and procedure, Environmental protection, Intergovernmental relations, Oil shale reserves, Public lands-mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 3930

Administrative practice and procedure, Environmental protection, Mineral royalties, Oil shale reserves, Public lands-mineral resources, Reporting and recordkeeping requirements, Surety bonds.

Accordingly, for the reasons stated in the preamble and under the authorities stated below, the BLM proposes to amend 43 CFR parts 3900, 3920, and 3930 as set forth below:

PART 3900—OIL SHALE MANAGEMENT—GENERAL

■ 1. The authority citation for part 3900 continues to read as follows:

Authority: 30 U.S.C. 189, 359, and 241(a), 42 U.S.C. 15927, 43 U.S.C. 1732(b) and 1740.

■ 2. Amend § 3903.52 by revising paragraph (b) to read as follows:

Subpart 3903—Fees, Rentals, and Royalties

§ 3903.52 Production royalties.

* * * * *

(b) The royalty rate will be set by the BLM in the notice of sale as provided in section 3924.5(b)(3) of this part or, for R, D and D conversion, will be established by the Secretary of the Interior.

PART 3920—OIL SHALE LEASING

■ 3. The authority citation for part 3920 continues to read as follows:

Authority: ; 30 U.S.C. 241(a), 42 U.S.C. 15927, 43 U.S.C. 1732(b) and 1740.

Subpart 3925—Award of Lease

■ 4. Amend § 3925.10 by revising paragraph (a) to read as follows:

§ 3925.10 Award of lease.

(a) The lease may be awarded to the highest qualified bidder whose bid meets or exceeds the BLM's estimate of FMV, except as provided in § 3924.10. The BLM will not issue a commercial lease unless it determines that oil shale operations can occur without unacceptable environmental risk. When the BLM determines that the lease should be issued, it will provide the successful bidder 3 copies of the oil shale lease form for execution. Commercial oil shale leases will be issued only under the procedures in this part.

* * * * *

Subpart 3926—Conversion of Preference Right for Research, Development, and Demonstration (R, D and D) Leases

■ 5. Amend § 3926.10 by revising paragraph (a) by adding a sentence to the end of the paragraph, by revising the introductory text of paragraph (c), and by adding paragraph (c)(6) to read as follows:

§ 3926.10 Conversion of an R, D and D lease to a commercial lease.

(a) * * * The BLM may, in its discretion, deny an application to convert an R, D and D lease to a commercial lease based on environmental or other resource considerations.

* * * * *

(c) The lessee of an R, D and D lease has the exclusive right to acquire any and all portions of the preference right area designated in the R, D and D lease, up to a total of 5,120 acres in the lease. The BLM may, in its discretion, deny an application to convert an R, D and D lease to a commercial lease based on environmental or other resource considerations. The BLM may approve the conversion application, in whole or in part, if it determines that:

* * * * *

(6) Commercial scale operations can be conducted without unacceptable environmental risk.

* * * * *

PART 3930—MANAGEMENT OF OIL SHALE EXPLORATION AND LEASES

■ 6. The authority citation for part 3930 continues to read as follows:

Authority: 25 U.S.C. 396d and 2107, 30 U.S.C. 241(a), 42 U.S.C. 15927, 43 U.S.C. 1732(b), 1733, and 1740.

Subpart 3931—Plans of Development and Exploration Plans

■ 7. Amend § 3931.10 by revising paragraph (e) and adding new paragraph (g) to read as follows:

§ 3931.10 Exploration plans and plans of development for mining and in situ operations.

* * * * *

(e) All development and exploration activities must comply with the BLM-approved POD or exploration plan. The BLM will not approve a POD unless it determines that operations under the POD can occur without unacceptable environmental risk.

* * * * *

(g) The BLM may deny a POD based on environmental or other resource considerations, or may require a modification of, or condition the POD to protect the environment or other resources.

■ 8. Amend § 3931.11 by adding new paragraphs (h), (i), (j), and (k) and redesignating existing paragraphs (h) as (l); (i) as (m); (j) as (n); and (k) as (o).

§ 3931.11 Content of plan of development.

* * * * *

(h) A watershed and groundwater protection plan, which is a plan to conduct operations in a manner that protects surface and groundwater resources from adverse effects on the quality, quantity, timing, and distribution of water resulting from operations, and to monitor, adaptively manage, and mitigate adverse impacts, both during and after operations;

(i) An airshed review, which is a review of the scientific data and analyses currently available at a reasonable cost relevant to the potential effects of commercial oil shale operations on the air quality of the pertinent airshed. The review must provide the BLM with useful information to assess the effects of operations on the airshed;

(j) An integrated waste management plan, which is a plan to conduct operations in a manner that minimizes the production of mine waste, and to monitor, adaptively manage, and mitigate the impacts of waste both during and after operations;

(k) An environmental protection plan, which is a plan to:

(1) Conduct operations in a manner that minimizes adverse effects of oil shale operations, on the:

(i) Quality of the air and water;

(ii) Wildlife and native plants; and

(iii) Productivity of soils; and

(2) Monitor, adaptively manage, and mitigate such adverse effects both during and after operations;

* * * * *

Dated: March 22, 2013.

Tommy P. Beaudreau,

Acting Assistant Secretary of the Interior, Land and Minerals Management.

[FR Doc. 2013–07052 Filed 3–26–13; 8:45 am]

BILLING CODE 4310–84–P

Notices

Federal Register

Vol. 78, No. 59

Wednesday, March 27, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 21, 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.

Food and Nutrition Service

Title: Supplemental Nutrition Assistance Program Forms: Applications, Periodic Reporting, and Notices.

OMB Control Number: 0584–0064.

Summary of Collection: The Food and Nutrition Act of 2008 (the Act), as amended, specifies national eligibility standards and imposes certain administrative requirements on State agencies in administering the program. Information must be collected from households to assure that they are eligible for the program and that they receive the correct amount of Supplemental Nutrition Assistance Program (SNAP) benefits. Information collected is limited to that necessary for the administration and enforcement of the SNAP Program. The Federal procedures for implementing the application and certification procedures in the Act are in Parts 271, 272, and 273 of the Title 7 of the Code of Federal Register.

Need and Use of the Information: FNS will collect information to determine the eligibility of households for the SNAP program and to determine the correct benefit levels for eligible households. If information is not collected to certify households in accordance with the Act or changing the frequency of information or reporting requirements as they relate to the application, certification, and continue eligibility of households would result in a direct violation of the Act and its implementing regulations. Further, benefits could be overissued or underissued for a long period of time if necessary information is not collected or actions are not taken timely.

Description of Respondents: State, Local, and Tribal Government; Individuals or household.

Number of Respondents: 14,910,993.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Monthly; Quarterly.

Total Burden Hours: 24,897,947.

Food and Nutrition Service

Title: Senior Farmers' Market Nutrition Program.

OMB Control Number: 0584–0541.

Summary of Collection: The Senior Farmers' Market Nutrition Program (SFMNP) authorized by Section 4402 of Public Law 107–711, the Farm Security and Rural Investment Act of 2002, 7 U.S.C. 3007, the Food Conservation and Energy Act of 2008, Public Law 110–246, reauthorized the SFMNP through Fiscal Year 2012. The purposes of the SFMNP are to provide resources in the form of fresh, nutritious, unprepared locally grown fruits, vegetables, honey and herbs from farmer's markets, roadside stands, and community supported agriculture (CSA) programs to low-income seniors; to increase the domestic consumption of agricultural commodities by expanding or aiding in the expansion of domestic farmers' markets, roadside stands, and CSA program; and to develop or aid in the development of new and additional farmers' markets, roadside stands, and CSA programs. The SFMNP is designed to be administered in a manner consistent with the administration of the WIC Farmers Market Nutrition Program whenever possible.

Need and Use of the Information: SFMNP financial and program information is collected on the FNS–683–A, ''Senior Farmers' Market Nutrition Program Annual Financial and Program Data Report'' and is submitted annually to the Food and Nutrition Service (FNS) by participating SFMNP State agencies. The information is used to reconcile and close out grants in accordance with the requirements of § 3016.23(b) and § 3016.41(a)(1). FNS will also collect information to assess how each State agency operates and to ensure the accountability of State agencies, local agencies, and authorized farmers/farmers' markets, roadside stands, and CSA programs in administering the SFMNP.

Description of Respondents: State, Local, or Tribal Government; Farms; Individuals or households; Business or other for-profit; Not for-profit institutions.

Number of Respondents: 905,669.

Frequency of Responses: Recordkeeping; Report: Annually.

Total Burden Hours: 474,273.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–06953 Filed 3–26–13; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 21, 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.

Foreign Agricultural Service

Title: CCC's Dairy Export Incentive Program (DEIP).

OMB Control Number: 0551–0028.

Summary of Collection: The major objective of the Dairy Export Incentive Program (DEIP) is to expand U.S. agricultural exports by paying cash to exporters as bonuses, allowing them to sell U.S. agricultural products in targeted countries at competitive prices. When the program is operational, approximately 100 countries and 3 regions are targeted export destinations and 425 exporters are eligible to participate under the DEIP. Under 7 CFR part 1494, exporters are required to submit the following: (1) Information required for program participation (section 1494.301), (2) performance security (section 1494.401), (3) export sales information in connection with applying for a CCC bonus (section 1494.501), and (4) documentation evidencing export to support payment of the bonus (section 1494.701) In addition, each exporter must maintain accurate records showing sales and deliveries of the eligible commodity exported in connection with an agreement made under the DEIP, as outlined in section 1494.1001.

Need and Use of the Information: The Foreign Agricultural Service (FAS) collects information from participating U.S. exporters in order to determine the exporters' eligibility for the DEIP program benefits. Program applicants can fax a letter in or applicants may register over the Internet. Information collected from U.S. exporters is used by CCC to manage, plan for, and evaluate the use of, and account for Government resources. Without the application and related information, FAS would be unable to properly qualify U.S. exporters for DEIP.

Description of Respondents: Business or other for-profit.

Number of Respondents: 9.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 47.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–06951 Filed 3–26–13; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Construction Progress Reporting Surveys.

OMB Control Number: 0607–0153.

Form Number(s): C–700, C–700(F), C–700(SL), C–700(R).

Type of Request: Extension of a currently approved collection.

Burden Hours: 54,600.

Number of Respondents: 21,000.

Average Hours per Response: 15 minutes per month.

Needs and Uses: The U.S. Census Bureau is requesting an extension of a currently approved collection for forms C–700, Private Construction Projects; C–700 (R), Multi-family Residential Projects, C–700 (SL), State and Local Governments Projects and C–700 (F), Federal Government Projects.

These forms are used to conduct the Construction Progress Reporting Surveys (CPRS) to collect information on the dollar value of construction put in place on building projects under construction by private companies or individuals, private multi-family residential buildings, and on building projects under construction by federal and state and local governments.

Data for these surveys are collected on a sample basis from federal, state and local agency officials, owners of private nonresidential projects, and owners of private multi-family residential building projects. Total projected cost estimates are requested the first month and monthly progress reports are requested until the project is completed.

The Census Bureau uses the information collected on these forms to publish estimates of the monthly value of construction put in place: (1) For nonresidential projects owned by private companies or individuals; (2) for projects owned by state and local agencies; (3) for multi-family residential building projects owned by private companies or individuals; and (4) for projects owned by the federal government. Statistics from the CPRS become part of the monthly ''Value of Construction Put in Place'' or ''Construction Spending'' series, a principal economic indicator that is used extensively by the Federal Government in making policy decisions and used to estimate the gross domestic product (GDP). The private sector uses the statistics for market analysis and other research. Construction now accounts for more than five percent of GDP.

The C–700 is used to collect data on industrial and manufacturing plants, office buildings, retail buildings, service establishments, religious buildings, schools, universities, hospitals, clinics, and miscellaneous buildings. The C–700 (SL) is used to collect data on public schools, courthouses, prisons, hospitals, civic centers, highways, bridges, sewer systems, and water systems. The C–700 (R) is used to collect data on residential buildings and apartment projects with two or more housing units. The C–700 (F) is used to collect data on residential buildings and nonresidential projects

that include office buildings, conservation and development, public safety and health care. Published statistics are used by all levels of government to evaluate economic policy, to measure progress toward national goals, to make policy decisions, and to formulate legislation. For example, Bureau of Economic Analysis (BEA) staff uses the data to develop the construction components of gross private domestic investment in the gross domestic product. The Federal Reserve Board and the Department of the Treasury use the value in place data to predict the gross domestic product, which is presented to the Board of Governors and has an impact on monetary policy. Private businesses and trade organizations use the data for estimating the demand for building materials and to schedule production, distribution and sales efforts.

Affected Public: Business or other for-profit; Not-for-profit Institutions; Federal Government; State, local or Tribal Governments.

Frequency: Monthly until building project is completed.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 182.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the Internet at *jjessup@doc.gov).*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or email *(bharrisk@omb.eop.gov).*

Dated: March 21, 2013.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–06969 Filed 3–26–13; 8:45 am]

BILLING CODE 3510–07–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination Under the Textile and Apparel Commercial Availability Provision of the United States-Colombia Trade Promotion Agreement (''US-Colombia TPA'')

AGENCY: The Committee for the Implementation of Textile Agreements.

ACTION: Determination to add a product in unrestricted quantities to Annex 3–B of the US-Colombia TPA.

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

SUMMARY: The Committee for the Implementation of Textile Agreements (''CITA'') has determined that certain cotton corduroy fabric, as specified below, is not available in commercial quantities in a timely manner in the territory of either the United Sates or Colombia. The product will be added to the list in Annex 3–B of the US-Colombia TPA in unrestricted quantities.

FOR FURTHER INFORMATION CONTACT: Maria Dybczak, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3651.

For Further Information On-Line: http://web.ita.doc.gov/tacgi/PeruTPAReqTrack.nsf/ColombiaPetitionsApproved under ''Approved Requests,'' Reference number: 3.2013.02.22. Fabric.AM&SforBellaBliss

SUPPLEMENTARY INFORMATION:

Authority: The US-Colombia TPA; Section 203(o)(4) of the United States-Colombia Trade Promotion Agreement Implementation Act (''US-Colombia TPA Implementation Act''), Public Law 112–42 (October 21, 2011); the Statement of Administrative Action, accompanying the US-Colombia TPA Implementation Act; and Presidential Proclamation No. 8818, 77 FR 29519 (May 18, 2012).

Background

The US-Colombia TPA provides a list in Annex 3–B for fabrics, yarns, and fibers that the Parties to the US-Colombia TPA have determined are not available in commercial quantities in a timely manner in the territory of any Party. The US-Colombia TPA and the US-Colombia TPA Implementation Act provides that this list may be modified when the President of the United States determines that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the territory of any Party. *See* Annex 3–B of the US-Colombia TPA; *see also* section 203(o)(4) of the US-Colombia TPA Implementation Act.

The US-Colombia TPA Implementation Act requires the President to establish procedures governing the submission of a request and providing opportunity for interested entities to submit comments and supporting evidence before a commercial availability determination is made. In Presidential Proclamation 8818, the President delegated to CITA the authority under section 203(o)(4) of the US-Colombia TPA Implementation Act for modifying the Annex 3–B list. Pursuant to this authority, on November 6, 2012, CITA published interim procedures it would follow in considering requests to modify the Annex 3–B list of products determined to be not commercially available in the territory of either the United States or Colombia (*Interim Procedures for Considering Requests Under the Commercial Availability Provision of the United States-Colombia Trade Promotion Agreement,* 77 FR 66588) (''CITA's procedures'').

On February 22, 2013, the Chairman of CITA received a request for a Commercial Availability determination (''Request'') from AM&S Trade Services, LLC on behalf of Bella Bliss, LLC for certain cotton corduroy fabric, as specified below. On February 26, 2013, in accordance with CITA's procedures, CITA notified interested parties of the Request, which was posted on the dedicated Web site for US-Colombia TPA Commercial Availability proceedings. In its notification, CITA advised that any Response with an Offer to Supply (''Response'') must be submitted by March 8, 2013, and any Rebuttal Comments to a Response must be submitted by March 14, 2013, in accordance with sections 6 and 7 of CITA's procedures. No interested entity submitted a Response to the Request advising CITA of its objection to the Request and its ability to supply the subject product.

In accordance with section 203(o)(4) of the US-Colombia TPA Implementation Act, and section 8(c)(2) of CITA's procedures, as no interested entity submitted a Response objecting to the Request and providing an offer to supply the subject product, CITA has determined to add the specified fabric to the list in Annex 3–B of the US-Colombia TPA.

The subject product has been added to the list in Annex 3–B of the US-Colombia TPA in unrestricted quantities. A revised list has been posted on the dedicated Web site for US-Colombia TPA Commercial Availability proceedings.

Specifications: Certain Cotton Corduroy Fabric

HTS Subheading: 5801.22.1000, 5801.22.9000

Wales: 6–10 wales per centimeter (19–23 wales per inch)
Fiber content: greater than 95% cotton by weight
Weight: 133–147 grams per square meter
Warp, ends per centimeter: 28–33
Filling, picks per centimeter: 66–73
Yarn counts:
Warp yarn: English—38–42; Metric 65–70
Filling yarn: English—38–42; Metric 65–70
Width: 134–153 centimeters; 53–60 inches
Finish: Cut, Desized

Note: The yarn size designations describe a range of yarn specifications for yarn in its greige condition before dyeing and finishing of the yarn (if applicable) and before knitting, dyeing and finishing of the fabric. They are intended as specifications to be followed by the mill in sourcing yarn used to produce the fabric. However, because dyeing, finishing, and knitting can alter the characteristic of the yarn as it appears in the finished fabric, the specification therefore includes yarns appearing in the finished fabric as finer or coarser than the designated yarn sizes provided that the variation occurs after processing of the greige yarn and production of the fabric. In addition, while the fabric is intended to be piece-dyed, the specifications include both piece- and yarn-dyed to accommodate any Customs' findings that the finished fabric appears to be yarn-dyed as a result of dye absorption.

Kim Glas,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 2013–07055 Filed 3–26–13; 8:45 am]

BILLING CODE 3510–DS–P

COUNCIL ON ENVIRONMENTAL QUALITY

Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies; Request for Comments on the Interagency Guidelines

AGENCY: Council on Environmental Quality.

ACTION: Draft guidelines with request for comments.

SUMMARY: Section 2031 of the Water Resources Development Act of 2007 (Pub. L. 110–114) directed the Secretary of the Army to revise the ''Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies'' (Principles and Guidelines), dated March 10, 1983, consistent with several considerations enumerated in the Act.

The revised Principles and Guidelines consist of three key components: (1) The Principles and Requirements (formerly called Principles and Standards), setting out broad policy and principles that guide investments; (2) the Interagency Guidelines, providing guidance to Federal agencies for determining the applicability of the Principles and Guidelines and for developing agency-specific implementing procedures for formulating, evaluating, and comparing water resources projects, programs, activities and related actions; and (3) the Agency Specific Procedures, outlining agency-specific procedures for incorporating the Principles and Requirements into agency missions and programs.

This notice is to provide an opportunity for interested individuals and organizations to submit comments on the draft Interagency Guidelines, one key component of the Principles and Guidelines. The draft Interagency Guidelines are available for review and comments can be submitted through the Web site, *www.whitehouse.gov/administration/eop/ceq/initiatives/PandG/*.

DATES: Submit comments on or before May 28, 2013.

ADDRESSES: *www.whitehouse.gov/administration/eop/ceq/initiatives/PandG.*

FOR FURTHER INFORMATION CONTACT: Catherine Shuman, Council on Environmental Quality at (202) 395–5750.

SUPPLEMENTARY INFORMATION: Section 2031 of the Water Resources Development Act of 2007 (Pub. L. 110–114) directed the Secretary of the Army to revise the ''Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies,'' dated March 10, 1983, consistent with several considerations enumerated in the Act.

Additional information on the revision process is available at *www.whitehouse.gov/administration/eop/ceq/initiatives/PandG*.

Dated: March 22, 2013.

Nancy H. Sutley,

Chair, Council on Environmental Quality.

[FR Doc. 2013–07090 Filed 3–26–13; 8:45 am]

BILLING CODE 3225–F3–P

COUNCIL ON ENVIRONMENTAL QUALITY

Economic and Environmental Principles and Requirements for Water and Related Land Resources Implementation Studies; Final

AGENCY: Council on Environmental Quality.

ACTION: Notice of Availability of Final Principles and Requirements.

SUMMARY: Section 2031 of the Water Resources Development Act of 2007 (Pub. L. 110–114) directed the Secretary of the Army to revise the ''Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies'' (Principles and Guidelines), dated March 10, 1983, consistent with several considerations enumerated in the Act.

The revised Principles and Guidelines consist of three key components: (1) The Principles and Requirements (formerly called Principles and Standards), setting out broad policy and principles that guide investments; (2) the Interagency Guidelines, providing guidance to Federal agencies for determining the applicability of the Principles and Guidelines and for developing agency-specific implementing procedures for formulating, evaluating, and comparing water resources projects, programs, activities and related actions; and (3) the Agency Specific Procedures, outlining agency-specific procedures for incorporating the Principles and Requirements into agency missions and programs.

This notice is to inform you that the Principles and Requirements, one key component of the Principles and Guidelines, are finalized and available at www.whitehouse.gov/administration/eop/ceq/initiatives/PandG. The Principles and Requirements were developed through a collaborative interagency process that promoted the open exchange of information and perspectives. The process has engaged the public through formal public review and workshops, and included an external peer review by the National Academies of Science as required by the Water Resources Development Act of 2007.

Modernized Principles and Guidelines will improve Federal government decision making related to investment in water resource projects and, thus, improve how our country plans for infrastructure projects.

DATES: The Principles and Requirements were issued on March 18, 2013.

ADDRESSES: *www.whitehouse.gov/administration/eop/ceq/initiatives/PandG.*

FOR FURTHER INFORMATION CONTACT: Catherine Shuman, Council on Environmental Quality at (202) 395–5750.

SUPPLEMENTARY INFORMATION: Section 2031 of the Water Resources Development Act of 2007 (Pub. L. 110–114) directed the Secretary of the Army to revise the ''Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies,'' dated March 10, 1983, consistent with several considerations enumerated in the Act. The revised Principles and Requirements will provide guidance for agencies to implement the Principles and Guidelines.

Additional information on the revision process is available at *www.whitehouse.gov/administration/eop/ceq/initiatives/PandG.*

Dated: March 22, 2013.

Nancy H. Sutley,

Chair, Council on Environmental Quality.

[FR Doc. 2013–07087 Filed 3–26–13; 8:45 am]

BILLING CODE 3225–F3–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2013–OS–0059]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Department of the Air Force announces the proposed extension of a 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 28, 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, 4800 Mark Center Drive, East Tower, Suite 02G09, 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 identifiers 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: the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, 3010 Defense Pentagon, Washington, DC 20301–3010, or contact Shanna Poole at *Shanna.Poole@osd.mil* or (703) 692–3032.

Title; Associated Form; and OMB Number: Qualification to Possess Firearms or Ammunition; OMB Control Number 0704–0461.

Needs and Uses: In accordance with DoD Instruction 3020.50, ''Private Security Contractors Operating in Contingency Operations'' written acknowledgement by the contract company and its individual Private Security Contractor (PSC) personnel, after investigation of background of PSC personnel by the contractor, shall be provided verifying such personnel are not prohibited under 922(g) of title 18, United States Code to possess firearms or ammunition.

Affected Public: Business or Other For-Profit.

Annual Burden Hours: 3,750 hours.

Number of Respondents: 125.

Responses per Respondent: 5 to 2,500 (average 120).

Annual Responses: 15,000.

Average Burden per Response: 15 minutes.

Frequency: On Occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Written acknowledgements shall be used to verify that PSC personnel meet qualifications to possess firearms or ammunition.

In the case of individuals found to have a qualifying conviction, the appropriate authority will immediately retrieve all government-issued firearms and ammunition. It will be requested that such individuals be removed from contracts supporting contingency operations.

Dated: March 21, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–06973 Filed 3–26–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2013–OS–0058]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Department of the Air Force announces the proposed extension of a 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 28, 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, 4800 Mark Center Drive, East Tower, Suite 02G09, 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 identifiers 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: the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, 3010 Defense Pentagon, Washington, DC 20301–3010, or contact Shanna Poole at *Shanna.Poole@osd.mil* or (703) 692–3032.

Title; Associated Form; and OMB Number: Synchronized Predeployment and Operational Tracker (SPOT) System; OMB Control Number 0704–0460.

Needs and Uses: In accordance with section 861 of Public Law 110–181 and DoD Instruction 3020.41, ''Operational Contract Support'' and other appropriate policy, Memoranda of Understanding, and regulations, the DoDComponents, the Department of State (DoS), and the United States Agency for International Development (USAID) shall ensure that contractors enter data into the Synchronized Predeployment and Operational Tracker (SPOT) System before deployment outside the United States. Data collection on contractors is a condition of their contract when DFARS 252.225–7040 is incorporated and persons who choose not to have data collected will not be entitled to employment opportunities which require this data to be collected.

Affected Public: Business or other for profit.

Annual Burden Hours: 150,150 .

Number of Respondents: 1,300.

Responses per Respondent: 1 to 32,000 (average 231).

Annual Responses: 300,300.

Average Burden per Response: 30 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The Department of Defense has designated the SPOT as the joint Web-based database to assist the Combatant Commander (CCDR) in maintaining awareness of the nature, extent, and potential risks and capabilities associated with contracted support in support of contingency operations, humanitarian or peacekeeping operations, or military exercises designated by the CCDR.

The designated joint Web-based database (SPOT or its successor) shall:

(a) Serve as the central repository for up-to-date status and reporting on ALL DoD funded contingency contractor personnel as well as other personnel as directed by Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)), or by the CCDR.

(b) Track contract capability information for all DoD funded contracts supporting contingency operations, humanitarian or peacekeeping operations, or military exercises designated by the CCDR. Contract capability information shall provide planners and CCDRs an awareness of the nature, extent, and potential risks and capabilities associated with the contracted effort.

(c) Provide by-name accountability of all DoD funded contingency contractor personnel and other personnel as directed by USD(AT&L) or the CCDR.

(d) Contain, or link to, minimum contract information (e.g., contract number, company contact information, sponsoring (requiring activity) military unit contact information, and a summary of services or capability provided by the contract) necessary to establish and maintain accountability and visibility of the personnel and the contract capabilities in contingency operations, humanitarian or peacekeeping operations, or military exercises designated by the CCDR.

Section 861 of the NDAA for FY 2008 required the identification of common databases among the DoD, DoS, and USAID to serve as repositories of information on contracts and contractor personnel in Iraq and Afghanistan. In a signed memorandum of understanding (MOU), the Agencies agreed that SPOT will serve as the interagency database for information on contractor personnel. Each Agency must require its contractors operating in contingency operations to input information into SPOT and ensure data integrity.

Dated: March 21, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–06972 Filed 3–26–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Reserve Forces Policy Board (RFPB); Notice of Cancellation and Rescheduling of Federal Advisory Committee Meeting

AGENCY: Department of Defense; Office of the Secretary of Defense, Reserve Forces Policy Board.

ACTION: Notice of Advisory Committee Meeting cancellation and rescheduling of meeting.

SUMMARY: On February 19, 2013 (78 FR 11631–11632), the Reserve Forces Policy Board (RFPB) announced a meeting to be held on Wednesday, March 6, 2013, from 8:20 a.m. to 3:50 p.m. in the Pentagon. Due to weather conditions and a federal government shutdown, the scheduled March 6, 2013 Board meeting is rescheduled for April 3, 2013. Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces the following rescheduled Federal advisory committee meeting of the Reserve Forces Policy Board will take place.

DATES: Wednesday, April 3, 2013, from 8:45 a.m. to 11:15 a.m.

ADDRESSES: The Reserve Forces Policy Board Conference Room, 5113 Leesburg Pike, Skyline Four, Suite 601, Falls Church, Virginia 22041.

FOR FURTHER INFORMATION CONTACT: Captain Steven Knight, Designated Federal Officer, (703) 681–0608 (Voice), (703) 681–0002 (Facsimile), *RFPB@osd.mil.* Mailing address is Reserve Forces Policy Board, 5113 Leesburg Pike, Suite 601, Falls Church, VA 22041. Web site: *http://ra.defense.gov/rfpb/.* The most up-to-date changes to the meeting can be found on the RFPB Web site.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: Due to weather conditions and a federal government shutdown, the scheduled March 6, 2013 Board meeting is rescheduled to April 3, 2013. The purpose of the meeting is to obtain, review and evaluate information related to strategies, policies, and practices designed to improve and enhance the capabilities, efficiency, and effectiveness of the reserve components.

Agenda: The Reserve Forces Policy Board will hold a meeting from 8:45 a.m. until 11:15 a.m. The meeting will be open to the public. The meeting will address the following topics: RFPB Cost

Methodology Project update, RFPB Subcommittee presentations and a Secretary of Defense Strategic Question Task Group presentation. The Board may deliberate on the findings of the presentations and approve recommendations to the Secretary of Defense.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and the availability of space, the open portion of the meeting is open to the public. To request a seat at the meeting, interested persons must email or phone the Designated Federal Officer not later than April 2, 2013 as listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, interested persons may submit written statements to the Reserve Forces Policy Board at any time. Written statements should be submitted to the Reserve Forces Policy Board's Designated Federal Officer at the address, via email, or facsimile number listed in the **FOR FURTHER INFORMATION CONTACT** section. If statements pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than two (2) business days prior to the meeting in question. Written statements received after this date may not be provided to or considered by the Reserve Forces Policy Board until its next meeting. The Designated Federal Officer will review all timely submitted written statements and provide copies to all the committee members before the meeting that is the subject of this notice.

Due to difficulties, beyond the control of the Reserve Forces Policy Board or its Designated Federal Officer, the Board was unable to file a **Federal Register** notice for the April 3, 2013 meeting of the Reserve Forces Policy Board as required by 41 CFR 102–3.150(a). Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Dated: March 22, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–07021 Filed 3–26–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2013–0005]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to reinstate seven systems of records.

SUMMARY: The Department of the Army proposes to reinstate seven systems of records in its inventory of record systems to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. After review, it has been determined that the records covered under these previously deleted notices (see 77 FR 13573–13574), March 7, 2012) were erroneously deleted; therefore these notices are being reinstated.

DATES: This proposed action will be effective on April 29, 2013 unless comments are received which result in a contrary determination. Comments will be accepted on or before April 26, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal:* http://www.regulations.gov.

Follow the instructions for submitting comments.

- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

ADDRESSES: Send comments to Headquarters, Department of the Army, Privacy Office, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22315–3827 or by phone at 703–428–6185.

FOR FURTHER INFORMATION CONTACT: Mr. Leroy Jones, Jr., Department of the Army, Privacy Office, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22315–3827 or by phone at 703–428–6185.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Department of the Army proposes to reinstate seven systems of records to its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The previous systems of records notices are being republished in its entirety, below. The reinstatement is not within the purview of subsection of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: March 21, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0600o AHRC

SYSTEM NAME:

Army Career and Alumni Program (ACAP XXI).

SYSTEM LOCATION:

Primary location: Headquarters, U.S. Army Human Resources Command, ATTN: AHRC–PDT–O, 200 Stovall Street, Alexandria, VA 22332–0476. Secondary locations: Army Career and Alumni Program Centers. A complete list of ACAP centers may be obtained by writing to the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Defense military personnel (Active/reserve duty) and their spouses; U.S. Coast Guard personnel and their spouses; Department of Defense civilian employees and their spouses; U.S. Army National Guard personnel and their spouses; DoD personnel who retired no earlier than ninety (90) days prior to the date they requested ACAP services; and widows and widowers of deceased active duty military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain individual's name, home address, Social Security Number, date of birth, job qualifications, DD Form 2648 (Pre-Separation Counseling Checklist), and similar or pre-separation/transition counseling related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 3013, Secretary of the Army, 10 U.S.C., Chapter 58; DoD Directive 1332.35; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

To provide transition planning/counseling for individuals so that they may re-enter the civilian job market.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses set forth at the beginning of the Army's compilation of systems of records notices may apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored electronically on computers and on paper in file folders.

RETRIEVABILITY:

By name or Social Security Number.

SAFEGUARDS:

All records are maintained in secured areas, accessible only to designated personnel whose official duties require they have access. The personal computer system can only be accessed through a system of passwords known only to the individual and the system administrator/supervisor. Paper files are secured in locked file cabinets. The areas where the personal computer and paper files are located are secured after duty hours in locked buildings.

RETENTION AND DISPOSAL:

Records are deleted after 90 days inactivity for individual personnel records.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Human Resources Command, ATTN: AHRC–PDT–O, 200 Stovall Street, Alexandria, VA 22332–0476.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in the system should address written inquiries to the Director of the ACAP Center where transition assistance was obtained or contact the system manager.

Requesting individual must submit full name and Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address written inquiries to the Director of the ACAP Center where transition assistance was obtained or contact the system manager. Requesting individual must submit full name and Social Security Number.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, Army records and reports, and the U.S. Coast Guard records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

* * * * *

A0601–100 AHRC

SYSTEM NAME:

Officer Appointment Files.

SYSTEM LOCATION:

Commander, U.S. Army Human Resources Command, Chief, Officer Records Branch, 200 Stovall Street, Alexandria, VA 22332–0400.

Secondary locations: Army installations and commands. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for appointment in the U.S. Army or U.S. Army Reserves.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual applications for appointment as a warrant or commissioned officer, evaluation reports, supplemental information regarding qualifications, notification of acceptance/rejection and similar relevant documents and reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; Army Regulation 601–100, Appointment of Commissioned and Warrant Officers in the Regular Army; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

To determine acceptability of applicants into the Army officer ranks.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses set forth at the beginning of the Army's compilation of systems of records notices may apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders stored in file cabinets on microfiche and electronic storage media.

RETRIEVABILITY:

By individual's surname and Social Security Number.

SAFEGUARDS:

Records are maintained in secured areas and secured buildings accessible only to designated individuals having official need thereof in the performance of their duties.

RETENTION AND DISPOSAL:

Inquiry and eligibility files retain and destroy after 2 years. Appointment application records destroy after 1 year. Appointment selection board records retain for 3 years then destroy. Appointment lists retain and destroy after 2 years.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Human Resources Command, Officer Records Branch, 200 Stovall Street, Alexandria, VA 22332–0400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Army installation in which application was sent or to the Commander, U.S. Army Human Resources Command, Officer Records Branch, 200 Stovall Street, Alexandria, VA 22332–0400. Individual should provide the full name, Social Security Number, date of application, place to which sent, and any other information that will assist in locating the record.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Army installation in which application was sent or to the Commander, U.S. Army Human Resources Command, Officer Records Branch, 200 Stovall Street, Alexandria, VA 22332–0400.

Individual should provide the full name, Social Security Number, date of application, place to which sent, and any other information that will assist in locating the record.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual; extracts from personnel records; forms, documents, and related papers originated by or received in Army offices.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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A0601–280a AHRC

SYSTEM NAME:

Qualitative Management Program Appeal File.

SYSTEM LOCATION:

Active Duty Army and Active Army Reserve records are located at U.S. Army Enlisted Records and Evaluation Center, 8899 East 56th Street, Indianapolis, IN 46249–5301. Active National Guard Reserve records are located at the Commander, U.S. Army Human Resources Command, 1 Reserve Way, St. Louis, MO 63132–5200.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active Duty Army, full time Active National Guard Reserve and Active Army Reserve enlisted members in the grades of E–6 through E–9 who have appealed a bar to reenlistment.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains name, Social Security Number, pay grade, date of rank, basic active service date, estimated termination of service, primary and secondary military occupational specialties, bar to reenlistment letter/memorandum, appeal to bar to reenlistment and associated documentation, final determination of appeal by Reenlistment Appeals Board, enlisted efficiency reports, selected data elements pertaining to service record of appellant and similar relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; Army Regulation 635–200, Personnel Separation/Enlisted Personnel; Army Regulation 601–280, Army Retention Program; E.O. 9397 (SSN), as amended.

PURPOSE(S):

Records in this system are used for the management of personnel and manpower in order to deny continued service to non-productive enlisted soldiers and retain quality enlisted soldiers in the Army and to encourage soldiers to maintain eligibility for further service. Records in this system are used for the management of personnel, year group, and manpower, in order to retain quality soldiers in the Army.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses set forth at the beginning of the Army's compilation of systems of records notices may apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

By individual's name and Social Security Number.

SAFEGUARDS:

Records are protected by physical security devices, guards, and personnel clearances for individuals working with the system.

RETENTION AND DISPOSAL:

Approved certificate to bar reenlistment and approved recommendation to withdraw bar to reenlistment are filed in permanent section of the Military Personnel Records Jacket in accordance with prescribed regulations. Bar to reenlistment certificates for which total withdrawal has been approved are removed from the Military Personnel Records Jacket and destroyed. Documents used to determine reenlistment eligibility including entries transferred from personnel records, remarks by commander, additional documentation of interviews and similar information is forwarded with Military Personnel Records Jacket in accordance with prescribed regulations, destroy on reenlistment of individual.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Enlisted Records and Evaluation Center, 8899 East 56th Street, Indianapolis, IN 46249–5301 for matters concerning Active Duty Army and Active Army Reserve Commander, U.S. Army Human Resources Command, 1 Reserve Way, St. Louis, MO 63132–5200 for matters concerning Active National Guard Reserve.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Commander, U.S. Army Enlisted Records and Evaluation Center, 8899 East 56th Street, Indianapolis, IN 46249–5301 for matters concerning Active Duty Army and Active Army Reserve; and to the Commander, U.S. Army Human Resources Command, 1 Reserve Way, St. Louis, MO 63132–5200 for matters concerning Active National Guard Reserve.

Individual should provide the full name, Social Security Number, grade, and current address.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Commander, U.S. Army Enlisted Records and Evaluation Center, 8899 East 56th Street, Indianapolis, IN 46249–5301 for matters concerning Active Duty Army and Active Army Reserve; and to the Commander, U.S. Army Human Resources Command, 1 Reserve Way, St. Louis, MO 63132–5200 for matters concerning Active National Guard Reserve.

INDIVIDUAL SHOULD PROVIDE THE FULL NAME, SOCIAL SECURITY NUMBER, GRADE, AND CURRENT ADDRESS.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From Army records and reports; from appellant.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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A0601–280b AHRC

SYSTEM NAME:

Selective Reenlistment Bonus.

SYSTEM LOCATION:

U.S. Army Human Resources Command, Selective Reenlistment Bonus Manager, 2461 Eisenhower Avenue, Alexandria, VA 22332–0451.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Enlisted soldiers in grades E–1 through E–9 who have submitted a request for a selective reenlistment bonus.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, grade, Military Occupational Specialty, documentation substantiating request for accelerated payment, advisory recommendation for Army Board for Correction of Military Records consideration, and similar relevant documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; Army Regulation 601–280, Army Retention Program; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

To determine service member's qualification for selective reenlistment bonuses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses set forth at the beginning of the Army's compilation of systems of records notices may apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

By individual's surname and fiscal year.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel within the performance of their duties. Records are in a secured office within a secured building.

RETENTION AND DISPOSAL:

Records are destroyed upon reenlistment of individual.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Human Resources Command, Selective Reenlistment Bonus Manager, 2461 Eisenhower Avenue, Alexandria, VA 22331–0451.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Commander, U.S. Army Human Resources Command, Selective Reenlistment Bonus Manager, 2461 Eisenhower Avenue, Alexandria, VA 22331–0451. Individual should provide the full name, Social Security Number, and current address.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Commander, U.S. Army Human Resources Command, Selective Reenlistment Bonus Manager, 2461 Eisenhower Avenue, Alexandria, VA 22331–0451.

Individual should provide the full name, Social Security Number, and current address.

CONTESTING RECORD PROCEDURES:

The Army's rule for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, personnel records, other Army records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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A0608 AHRC

SYSTEM NAME:

Personal Affairs Files.

SYSTEM LOCATION:

Decentralized to major commands, installations, and activities. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

Categories of individuals covered by the system: Army officers, warrant officers, and enlisted personnel on active duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Third party inquiries pertaining to such matters as dependent assistance, indebtedness, non-support, paternity claims, and marriage in overseas areas.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army.

PURPOSE(S):

To review and answer inquiries concerning personal affairs of service members; e.g., dependent assistance, indebtedness, non-support, paternity claims, marriage in overseas areas, and similar matters that originate from third parties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses set forth at the beginning of the Army's compilation of systems of records notices may apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By service member's surname.

SAFEGUARDS:

Records are available only to designated persons having official need therefore in the performance of their duties. Records are kept in secure office areas.

RETENTION AND DISPOSAL:

Retained for 2 years.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Human Resources Command, ATTN: AHRC–PDO–IP, 200 Stovall Street, Alexandria, VA 22332–0474.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the command/installation/activity where they believe inquiry was sent.

Individual should provide the full name, current address and telephone number, and sufficient details to permit locating the record.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the command/installation/

activity where they believe inquiry was sent.

Individual should provide the full name, current address and telephone number, and sufficient details to permit locating the record.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From third parties, official Army records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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A0635–40 AHRC

SYSTEM NAME:

Temporary Disability Retirement Master List (TDRL).

SYSTEM LOCATION:

Primary location: Chief, U.S. Army Physical Disability Agency, Walter Reed Army Medical Center, 6900 Georgia Avenue NW., Building 7, Washington, DC 20307–5001.

Secondary location: Defense Finance and Accounting Service, 8899 East 56th Street, Indianapolis, IN 46249–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army personnel who are on temporary disability retirement.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains, Social Security Number, name, address, Department of Army special order number, percentage of disability, doctor code, re-examination date, date placed on TDRL, hospital code, travel code, Army component, pay termination code, requirement for board code, record control number, hospital name and address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 1376, Temporary Disability Retired Lists; 10 U.S.C. 3013, Secretary of the Army; Army Regulation 635–40, Physical Evaluation for Retention, Retirement of Separation; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

To coordinate with medical treatment facilities for scheduling medical examinations; to issue travel orders for individual to report to medical treatment facility for annual medical examination; to determine individual's status by the end of the fifth year of being on the TDRL, i.e., whether individual is to be permanently retired for disability, or returned to duty.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Veterans Affairs to facilitate claims for veteran disability benefits.

The DoD Blanket Routine Uses set forth at the beginning of the Army's compilation of systems of records notices may apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in medical treatment facilities; magnetic tape, disc.

RETRIEVABILITY:

By name, Social Security Number and date.

SAFEGUARDS:

Access to all records is restricted to individuals having need therefore in the performance of duties. Automated media are further protected by authorized password for system, controlled access to operation rooms and controlled output distribution. Records are retained in secure offices within secure buildings.

RETENTION AND DISPOSAL:

Information is maintained for 3 years after the member is found physically fit, separates or retires.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, U.S. Army Physical Disability Agency, Walter Reed Army Medical Center, 6900 Georgia Avenue NW., Building 7, Washington, DC 20307–5001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Chief, U.S. Army Physical Disability Agency, Walter Reed Army Medical Center, 6900 Georgia Avenue NW., Building 7, Washington, DC 20307–5001.

Individual should provide the full name, Social Security Number, current address and telephone number, and signature.

Inquiries are restricted to issues relating to the Temporary Disability Retirement List only; issues of pay must be made at the Defense Finance and Accounting Service, 8899 East 56th Street, Indianapolis, IN 46249–5000.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Chief, U.S. Army Physical Disability Agency, Walter Reed Army Medical Center, 6900 Georgia Avenue NW., Building 7, Washington, DC 20307–5001.

Individual should provide the full name, Social Security Number, current address and telephone number, and signature.

Inquiries are restricted to issues relating to the Temporary Disability Retirement List only; issues of pay must be made at the Defense Finance and Accounting Service, 8899 East 56th Street, Indianapolis, IN 46249–5000.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, medical treatment facilities, and other Army records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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A0635–200 AHRC

SYSTEM NAME:

Separations: Administrative Board Proceedings.

SYSTEM LOCATION:

U.S. Army Human Resources Command, ATTN: AHRC–PDT–P, 200 Stovall Street, Alexandria, VA 22332–0478. Segments exist at Major Army Commands and subordinate commands, field operating agencies, and activities exercising general courts-martial jurisdiction. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military members on whom allegations of defective enlistment/agreement/fraudulent entry/alcohol or other drug abuse rehabilitation failure/unsatisfactory performance/misconduct/

homosexuality under the provisions of Chapters 7, 9, 13, 14, or 15 of Army Regulation 635–200, Enlisted Personnel, result in administrative board proceedings.

CATEGORIES OF RECORDS IN THE SYSTEM:

Notice to service member of allegations on which proposed separation from the Army is based; supporting documentation; DA Form 2627, Records of Proceedings under Article 15, UCMJ; DD Form 493, Extract of Military Records of Previous Convictions; medical evaluations; military occupational specialty evaluation and aptitude scores; member's statements, testimony, witness statements, affidavits, rights waiver record; hearing transcript; board findings and recommendations for separation or retention; final action.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 1169, Regular enlisted members; limitations on discharge, 10 U.S.C. 3013, Secretary of the Army; 42 U.S.C. 10606 et seq.; DoD Directive 1030.1, Victim and Witness Assistance; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

Information is used by processing activities and the approval authority to determine if the member meets the requirements for retention or separation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To victims and witnesses of a crime for purposes of providing information, consistent with the requirements of the Victim and Witness Assistance Program, regarding the investigation and disposition of an offense.

The DoD Blanket Routine Uses set forth at the beginning of the Army's compilation of systems of records notices may apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

By individual's surname or Social Security Number.

SAFEGUARDS:

Records are accessed only by designated persons having official need; in locked cabinets, in locked rooms within secure buildings.

RETENTION AND DISPOSAL:

The original of board proceedings becomes a permanent part of the member's Official Military Personnel Record. When separation is ordered, a copy is sent to member's commander where it is retained for two years before being destroyed. When separation is not ordered, board proceedings are filed at the headquarters of the separation authority for two years, then destroyed. A copy of board proceedings in cases where the final authority is the U.S. Army Human Resources Command, pursuant to Army Regulation 635–200, is retained by that headquarters (AHRC–PDT) for one year following decision.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Human Resources Command, ATTN: AHRC–PDT–P, 200 Stovall Street, Alexandria, VA 22332–0478.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the commander of the installation where administrative board convened or to the Commander, U.S. Army Human Resources Command, ATTN: AHRC–PDT–P, 200 Stovall Street, Alexandria, VA 22332–0478.

Individual should provide the full name, details concerning the proposed or actual separation action to include location and date, and signature.

RECORD ACCESS PROCEDURES:

If individual has been separated from the Army, address written inquiries to the National Personnel Records Center, General Services Administration, 9700 Page Avenue, St. Louis, MO 63132–5200: proceedings will be part of the Official Military Personnel Record.

If member is on active duty, address written inquiries to the commander of the installation where administrative board convened.

Individual should provide the full name, details concerning the proposed or actual separation action to include location and date, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual; individual's commander; Army personnel, medical, and/or investigative records; witnesses; the Administrative Separation Board; federal, state, local, and/or foreign law enforcement agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2013–06964 Filed 3–26–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2013–0004]

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to reinstate five systems of records.

SUMMARY: The Department of the Army proposes to reinstate five systems of records to its inventory of record systems to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

After review, it has been determined that the records covered under this previously deleted notice (see 77 FR 13571–13573, March 7, 2012) were erroneously deleted; therefore these notices are being reinstated.

DATES: This proposed action will be effective on April 29, 2013 unless comments are received which result in a contrary determination. Comments will be accepted on or before April 26, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal Rulemaking Portal: http://www.regulations.gov.

Follow the instructions for submitting comments.

Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

ADDRESSES: Send comments to Headquarters, Department of the Army,

Privacy Office, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22315–3827 or by phone at 703–428–6185.

FOR FURTHER INFORMATION CONTACT: Mr. Leroy Jones, Jr., Department of the Army, Privacy Office, U.S. Army Records Management and Declassification Agency, 7701 Telegraph Road, Casey Building, Suite 144, Alexandria, VA 22315–3827 or by phone at 703–428–6185.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Department of the Army proposes to reinstate five systems of records to its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The previous systems of records notices are being republished in its entirety, below. The reinstatement is not within the purview of subsection of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: March 21, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0600–8–104g AHRC

SYSTEM NAME:

Career Management Individual and Dual Component Personnel Files.

SYSTEM LOCATION:

U.S. Army Human Resources Command, 200 Stovall Street, Alexandria, VA 22332–0474. Decentralized segments exist at the General Officer Management Office, Judge Advocate General's Office, the Chief of Chaplains Office, and the Medical Service Corps. Official mailing addresses may be obtained from U.S. Army Human Resources Command.

Dual Component Personnel files are located at the U.S. Army Human Resources Command, 1 Reserve Way, St. Louis, MO 63132–5200.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active Army members in enlisted grades E–5 through E–9, all warrant and commission officers. Any reserve or warrant officer on active duty as a regular Army enlisted; any reserve officer on active duty as a regular Army warrant officer. All reserve officers, warrant officers, and enlisted members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, rank, Social Security Number, basic entry date, promotion eligibility date; orders; record briefs; statements of preference; school credit papers; transcripts; details; career personnel actions; correspondence from individual concerned; original copy of efficiency report; academic reports; qualification records; appeal actions; assignment memoranda and requests for orders; memoranda concerning professional development actions; mandatory removal date; classification data; general orders concerning service awards; service agreements; variable incentive pay data; memoranda of interviews; assignment applications; resumes of qualifications, personal background and experience supporting service member's desires, nominative action by career managers; academic reports; copies of admonition/reprimands imposed under Article 15, UCMJ, letters of appreciation/commendation/recommendation; reports/letters from accredited educational and training organizations; and similar documents, records and reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; Army Regulation 600–39, Dual Component Personnel Management Program; Army Regulation 600–8–104, Military Personnel Information Management/Records; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

To manage member's Army career, when they will be considered for promotion; military education that needs to be completed for eligibility, including assignments, counseling, and monitoring professional development.

Specific only to Dual Component members: To make determinations if officer should be removed for substandard performance of duty; to advise of eligibility for retirement as either an officer of enlisted person and to apprise individuals of changes in the reserve program affecting them.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses set forth at the beginning of the Army's compilation of systems of records notices may apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and on magnetic tapes and electronic storage media.

RETRIEVABILITY:

By individual's surname and/or Social Security Number.

SAFEGUARDS:

Records are restricted to officially designated individuals in the performance of their assigned duties. Automated data are stored in vaults in secure buildings.

RETENTION AND DISPOSAL:

Career branch individual files disposition pending until National Archives and Records Administration is approved, treat as permanent.

Reserve officer career management files are forwarded with the individual's personnel file when transferred to Army Reserve, entry to active duty National Guard, Standby or Retired Reserve, however, upon final separation the records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Human Resources Command, 200 Stovall Street, Alexandria, VA 22332–0474.

Commander, U.S. Army Human Resources Command, 1 Reserve Way, St. Louis, MO 63132–5200 for Dual Component individuals.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the following:

For information concerning general officers: General Officer Management Office, 200 Army Pentagon, ATTN: Chief of Staff, Washington, DC 20310–0200.

For information concerning chaplains: Chief of Chaplains, 200 Army Pentagon, Room 1E417, Washington, DC 20310–0200.

For information concerning officers of The Judge Advocate General Corps: The Judge Advocate General, 200 Army Pentagon, Washington, DC 20310–0200.

For information pertaining to all other soldiers: Commander, U.S. Army Human Resources Command, 200 Stovall Street, Alexandria, VA 22332–0474. Individuals should designate Officer or Enlisted status.

For information concerning dual component personnel: Commander, U.S. Army Human Resources Command, 1 Reserve Way, St. Louis, MO 63132–5200.

Individual should provide the full name, Social Security Number, service identification number, military occupational specialty, military status, current home address and telephone number, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the following:

For information concerning general officers: General Officer Management Office, 200 Army Pentagon, ATTN: Chief of Staff, Washington, DC 20310–0200.

For information concerning chaplains: Chief of Chaplains, 200 Army Pentagon, Room 1E417, Washington, DC 20310–0200.

For information concerning officers of The Judge Advocate General Corps: The Judge Advocate General, 200 Army Pentagon, Washington, DC 20310–0200.

For information pertaining to all other soldiers: Commander, U.S. Army Human Resources Command, 200 Stovall Street, Alexandria, VA 22332–0474. Individuals should designate Officer or Enlisted status.

For information concerning dual component personnel: Commander, U.S. Army Human Resources Command, 1 Reserve Way, St. Louis, MO 63132–5200 Individual should provide the full name, Social Security Number, service identification number, military occupational specialty, military status, current home address and telephone number, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual; Army records; reports; enlistment, appointment, or commission related forms pertaining to the service member having a current active duty status; academic, training, and qualifications records acquired incident to military service; correspondence, forms, documents and other related papers originating in or collected by the military department for management purposes.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

* * * * *

A0600–8–1b AHRC

SYSTEM NAME:

Line of Duty Investigations.

SYSTEM LOCATION:

Personnel Plans and Actions Branch, Personnel Service Center at Army Installations; Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249–0601; U.S. Army Human Resources Command, Alexandria, VA 22332–0400; U.S. Army Human Resources Command, 9700 Page Avenue, St. Louis, MO 63132–5200; National Personnel Records Center (Military), 9700 Page Avenue, St. Louis, MO 63132–5200; National Guard Bureau, 5109 Leesburg Pike, Falls Church, VA 22041–3258; and Regional Support Centers for U.S. Army Reserve. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: ACTIVE DUTY, RESERVE AND NATIONAL GUARD MEMBERS WHO HAVE BEEN INJURED, DISEASED OR DECEASED AND WHO ARE IN A DUTY STATUS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Statement of Medical Examination and Duty Status; Report of Investigation-Line of Duty and Misconduct Status; approval/disapproval authority memoranda, and other relevant supporting documents such as military police reports, accident reports, witness statements, and appointment instruments, and action on appeals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 972, Members: Effect of time lost; 10 U.S.C. 1204, Members, on Active Duty for 30 days or less or on inactive duty training: retirement; 10 U.S.C. 1207, Disability from intentional misconduct of willful neglect: separation; 10 U.S.C. 3013, Secretary of the Army; 37 U.S.C. 802, Forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs; Army Regulation 600–8–1, Army Casualty Operation/Assistance/Insurance; and E.O. 9397(SSN), as amended.

PURPOSE(S):

To review facts and circumstances of service member's death, injury or disease and render decisions having the effect of approving/denying certain military benefits, pay and allowances.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b)of the Privacy Act of 1974, as amended, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be provided to the Department of Veterans Affairs for the purpose of determining the service member's entitlement to benefits.

The DoD Blanket Routine Uses set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

Note: This system of records contains individually identifiable health information. The DoD Health Information Privacy Regulation (DoD 6025.18–R) issued pursuant to the Health Insurance Portability and Accountability Act of 1996, applies to most such health information. DoD 6025.18–R may place additional procedural requirements on the uses and disclosures of such information beyond those found in the Privacy Act of 1974 or mentioned in this system of records notice.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, microfiche and electronic storage media.

RETRIEVABILITY:

By Social Security number and by service member's surname.

SAFEGUARDS:

Paper records in file folders are maintained in file cabinets accessible only to authorized personnel in the performance of their duties. Electronic storage media accessible to authorized personnel with password capability.

RETENTION AND DISPOSAL:

Documents related to determining line of duty status and incident investigation concerning individual Army members are maintained for 5 years then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Human Resources Command, 200 Stovall Street, Alexandria, VA 22332–0400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Commander, U.S. Army Enlisted Records and Evaluation Center, Fort

Benjamin Harrison, IN 46249–0601 (For enlisted personnel on active duty); Commander, U.S. Army Human Resources Command, Alexandria, VA 22332–0400 (For officers on active duty); Commander, U.S. Army Human Resources Command, 9700 Page Avenue, St. Louis, MO 63132–5200 (For Army reserve personnel); National Personnel Records Center (Military), 9700 Page Avenue, St. Louis, MO 63132–5200 (For separated enlisted and officer personnel); National Guard Bureau, 5109 Leesburg Pike, Falls Church, VA 22041–3258 (For full-time National Guard Duty under 32 U.S.C., those in federalized status, or those attending active Army service school).

Individuals should provide the full name, Social Security Number, present address, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Commander, U.S. Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249–0601 (For enlisted personnel on active duty); Commander, U.S. Army Human Resources Command, Alexandria, VA 22332–0400 (For officers on active duty); Commander, U.S. Army Human Resources Command, 9700 Page Avenue, St. Louis, MO 63132–5200 (For Army reserve personnel); National Personnel Records Center (Military), 9700 Page Avenue, St. Louis, MO 63132–5200 (For separated enlisted and officer personnel); National Guard Bureau, 5109 Leesburg Pike, Falls Church, VA 22041–3258 (For full-time National Guard Duty under 32 U.S.C., those in federalized status, or those attending active Army service school).

Individuals should provide the full name, Social Security Number, present address, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

Appeals of determinations by authority of the Secretary of the Army are governed by AR 600–8–1, Army Casualty and Memorial Affairs and Line of Duty Investigations; collateral review of decided cases is limited to questions of completeness of the records of such determinations.

RECORD SOURCE CATEGORIES:

From the individual, medical records, service member's commander, official Army records and reports, witness statements, civilian and military law enforcement agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

* * * * *

A0065 AHRC

SYSTEM NAME:

Postal and Mail Service System.

SYSTEM LOCATION:

Postal facilities at Army headquarters offices, commands, and installations. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons designated as postal clerks; military and civilian personnel assigned/attached to Army installations who require mail handling service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Designating Army postal clerks/NCO's/supervisors/orderlies (DD Form 285); locator cards (DA Form 3955) comprising a directory of individuals assigned, en route, and/or departing given installation, showing individual's full name, grade, current mailing address, date of assignment/detachment, and Social Security Number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; DoD 4525.6–M, DoD Postal Manual; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

To designate persons authorized to perform Army postal functions; to maintain current addresses of persons arriving/departing units for the purpose of handling personal mail.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b)of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to the U.S. Postal Service.

The DoD Blanket Routine Uses set forth at the beginning of the Army's compilation of systems of records notices may apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, microfiche and electronic storage media.

RETRIEVABILITY:

By individual's surname and/or Social Security Number.

SAFEGUARDS:

Records are located in secured buildings, accessible only to designated persons having an official need for the information. Electronic information is password controlled.

RETENTION AND DISPOSAL:

Documents designating postal personnel are destroyed two years from the termination/revocation date of designation. Directory locator cards (DA Form 3955) are retained for 12 months after member's departure from unit and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Human Resources Command, ATTN: AHRC–PDO–IP, Army Postal Officer, 200 Stovall Street, Alexandria, VA 22332–0474.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Installation Postal Director at the unit where assigned or employed.

Individual should provide the full name, Social Security Number, current address, and signature to assist in locating the Records.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Installation Postal Director at the unit where assigned or employed.

Individual should provide the full name, Social Security Number, current address, and signature to assist in locating the records. Personal visits may be made; individual must furnish proof of identity.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, unit commanders and Army postal officers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

* * * * *

A0600–8–1a AHRC

SYSTEM NAME:

Emergency Data Files.

SYSTEM LOCATION:

U.S. Army Human Resources Command, Alexandria, VA 22332–0400. Copy of Record of Emergency Data (DD Form 93) exists in soldier's field Military Personnel Records Jacket (MPRJ).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military personnel on active duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains DD Form 93, Record of Emergency Data. Document reflects the service member's name; Social Security Number; spouse and children's names and current address; persons to be and not to be notified in the event of death or injury; information on wills, insurance, and other such information; and designation of beneficiaries for certain benefits.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army and E.O. 9397 (SSN), as amended.

PURPOSE(S):

To document names and addresses of person(s) to be notified in emergency situations; to determine lawful disposition of service member's pay and allowances when that member is missing, captured, or becomes a casualty.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses set forth at the beginning of the Army's compilation of systems of records notices may apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Machine processed card in vertical file; paper copy in MPRJ.

RETRIEVABILITY:

Card is retrieved by Social Security Number; paper copy in MPRJ is retrieved by soldier's surname.

SAFEGUARDS:

Building employs security guards; the office in which record is located is in operation 24 hours a day, 7 days a week. Records are accessible only to authorized personnel.

RETENTION AND DISPOSAL:

The Emergency Data Card is retained until individual separates from the Army; then destroyed. Copy in the MPRJ is retired with the MPRJ. If individual dies, the form becomes part of the casualty case file which is retired upon completion to the National Personnel Records Center (Military), St. Louis, MO 63132–5200.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Human Resources Command, 200 Stovall Street, Alexandria, VA 22332–0400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Commander, U.S. Army Human Resources Command, ATTN: AHRC–PEC, Alexandria, VA 22332–0400.

Individual should provide the full name and other information that can be verified from the file.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Commander, U.S. Army Human Resources Command, ATTN: AHRC–PEC, Alexandria, VA 22332–0400.

Individual should provide the full name and other information that can be verified from the file.

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Service member.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

* * * * *

A0600–8–14 AHRC

SYSTEM NAME:

Uniformed Services Identification Card.

SYSTEM LOCATION:

Headquarters, Department of the Army, Major Army commands, staff and field operating agencies, installations and activities, Army-wide. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty, Reserve, National Guard and retired members of the uniformed services and their family members; Department of the Army civilian employees assigned overseas or residing on a military installation within the United States and their authorized family members; eligible foreign military personnel and their family members; civilian employees under contract with the Department of Defense, Uniformed Services and other government agencies and their authorized family members; Red Cross personnel authorized by the Geneva Convention to accompany the Armed Forces; as well as other civilian and uniformed service members found eligible in accordance with eligibility requirements.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application for a Uniformed Services Identification Card/DEERS Enrollment, service members name, Social Security Number, unit address and phone number, date of birth, age, blood type, marital status, family member's name, age, home address and phone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations, 10 U.S.C. 3013, Secretary of the Army; Army Regulation 600–8–14, Identification Cards for Members of The Uniformed Services, Their Family Members, and Other Eligible Personnel; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

Provide a record of identification cards issued and DEERS enrollment to ensure positive identification of personnel authorized privileges and service on military installations and/or activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Use set forth at the beginning of the Army's compilation of systems of records notices may apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; magnetic tapes; discs; cassettes; computer printouts, and microfiche.

RETRIEVABILITY:

By service members' name and Social Security Number; by applicant's name and Social Security Number.

SAFEGUARDS:

Records are maintained in secured buildings and are accessed only by authorized personnel who are trained and cleared for access, in the performance of their duties. Established procedures for the control of computer access are in place and periodically reviewed and updated to prevent unwarranted access.

RETENTION AND DISPOSAL:

Applications for military identification cards are destroyed after 1 year. Uniformed services identification cards are destroyed when no longer needed for current operations. Registers are destroyed after 5 years, unless they are bound which are maintained for 5 years after last entry then destroyed.

Uniformed Services identification cards for family members and other eligible personnel are destroyed when voided, replaced or is no longer valid (has expired).

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Human Resources Command, 200 Stovall Street, Alexandria, VA 22332–0400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the issuing office where the individual obtained the identification card or to the system manager.

Individual should provide the full name, number of the identification card, current address, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the issuing officer at the appropriate installation.

Individual should provide the full name, number of the identification card, current address, and signature.

CONTESTING RECORD PROCEDURES:

The Army rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, Army records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2013–06965 Filed 3–26–13; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2013–ICCD–0007]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; National Student Loan Data System (NSLDS)

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before April 26, 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–0007 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 2E103, 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: National Student Loan Data System (NSLDS).

OMB Control Number: 1845–0035.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Private Sector; State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 40,800.

Total Estimated Number of Annual Burden Hours: 156,880.

Abstract: The U.S. Department of Education will collect data through the National Student Loan Data System (NSLDS) system from postsecondary schools, Perkins Loan holders (or their servicers) and Guaranty Agencies about Federal Perkins, Federal Family Education, and William D. Ford Direct Student Loans to be used to manage federal student loan programs, develop policy and determine eligibility for Title IV student financial aid.

Dated: March 21, 2013.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–06955 Filed 3–26–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2013–ICCD–0038]

Agency Information Collection Activities; Comment Request; Experimental Sites Data Collection Instrument

AGENCY: Department of Education (ED), Federal Student Aid (FSA).

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 28, 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–0038 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 2E103, 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: Experimental Sites Data Collection Instrument.

OMB Control Number: 1845–NEW.

Type of Review: a new information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 25.

Total Estimated Number of Annual Burden Hours: 275.

Abstract: This data collection instrument will be used to collect specific information/performance data for analysis of the experiments. This effort will assist the Department in obtaining and compiling information to help determine change in the administration and delivery of Title IV programs. Institutions volunteer to become an experimental site to provide recommendations on the impact and effectiveness of proposed regulations or new management initiatives.

Dated: March 21, 2013.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–06957 Filed 3–26–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Guidelines for Home Energy Professionals: Standard Work Specifications for Single Family Energy Upgrades

AGENCY: Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy (DOE).

ACTION: Notice of availability.

SUMMARY: The U.S. Department of Energy Office of Energy Efficiency and Renewable Energy (EERE) is making final content available for the *Guidelines for Home Energy Professionals: Standard Work Specifications for Single Family Energy Upgrades (SWS).* This content is a set of recommended work specifications applicable to energy efficiency retrofits of single family homes. These specifications are intended as a resource for any organization, company or individual involved in energy efficiency retrofits of residential homes. Draft versions of the *SWS* were made available for public comment on November 9, 2010 (75 FR 68781) and on March 29, 2012 (77 FR 19008). The comment period for the March 29, 2011 draft was extended through a notice issued on April 18, 2012 (77 FR 23238).

ADDRESSES: The *SWS* content can be found at: *www.wip.energy.gov/pdfs/sws_singlefamily.pdf.* The Comment Report with responses to each comment received as well as revisions made to the text of the *SWS* can be found at Regulations.gov under docket ID# EERE–2012–WE–0042 or via direct link: *http://www.regulations.gov/#!docketDetail;dct=FR%252BPR%252BN%252BO%252BSR%252BPS;rpp=25;po=0;D=EERE–2012–WE–0042 as well as: http://nrel.pnnl.gov/forum.php.*

FOR FURTHER INFORMATION CONTACT: Joshua Olsen, Weatherization and Intergovernmental Programs, Mailstop EE–2K, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. Phone number: (202) 287–1813. Email: *Joshua.Olsen@ee.doe.gov.*

For legal questions: Christopher Calamita, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–71, 1000 Independence Avenue SW., Washington, DC 20585. Phone number: (202) 586–1777. Email: *christopher.calamita@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

EERE through the National Renewable Energy Laboratory is developing voluntary work specifications for the work involved in home energy upgrades. This content builds upon the considerable body of material already in circulation and the cumulative knowledge gathered throughout the 30-year history of the Weatherization Assistance Program (WAP) and broader home performance industry.

The development of the *SWS* is supported by the WAP Training and Technical Assistance Plan (T&TA). The process of developing the *SWS* has involved participation by numerous stakeholders, including WAP practitioners and trainers, home performance contractors, building scientists, organized labor, healthy homes and worker safety experts, and other professionals in the building trades and throughout the retrofit industry. On November 9, 2010, EERE issued a notice requesting public

comment on a draft version of the *SWS* (75 FR 68781). Additional background regarding this effort can be found in that document. The first public comment period resulted in nearly 1000 comments from approximately 100 unique commenters from across the Weatherization and home performance industries. As a result of issues identified by commenters, EERE gave further consideration to a number of technical issues and subsequently made changes to the *SWS.* EERE issued a notice requesting public comment on the changes to the *SWS* on March 29, 2012 (77 FR 19008). Due to the extent of the changes in the March 29, 2012 draft, additional time was requested by commenters for review and comment and the comment period for the March 29, 2012 draft was extended through a notice issued on April 18, 2012 (77 FR 23238). During this comment period DOE received submissions from 16 commenters, which DOE broke out into 367 comments.

II. Public Comments on the March 29, 2012 SWS Draft

DOE has reviewed all comments and incorporated those relevant and appropriate to the SWS. DOE received 4 comments from 4 individuals that were not applicable to the SWS and therefore has not provided any response to those comments.

Comments were received via an online Web site created specifically for the purpose of receiving, tracking and responding to comments. The individuals, agency and organizations that provided comments are listed below:

Name	Organization	Location
Gregory Brunner	United States Environmental Protection Agency (EPA)	Washington, DC.
Charles White	Plumbing Heating and Cooling Contractors (PHCC)	South Bend, IN.
Robert De Vries	Nu Wool Company Inc	Jenison, MI.
Eric Williams	reEnergize Program, City of Omaha	Omaha, NE.
Minh Tu	*www.phuclaithanh.com*	New York.
John Smith	No Organization Given	York.
Jennifer Cleary	Association of Home Appliance Manufacturers (AHAM)	Washington, DC.
Nurul Mustafit	Jepara Gallery	Jepara.
Alex Alexandru	Jocuri noi	Bucharest.
Donald Prather	Air Conditioning Contractors of America (ACCA)	Alexandria, VA.
Ted A. Williams	American Gas Association (AGA)	Washington, DC.
Chuck White	Plumbing, Heating and Cooling Contractors Association (PHCC)	South Bend, IN.
Phillip J. Wallace	Air-Conditioning, Heating & Refrigeration Institute (AHRI)	Washington, DC.
John Diem	ESCO Institute	Dickinson, ND.
Patrick Murphy	RSES	Des Plaines, IL.
Steve Baden	RESNET	Oceanside, CA.

Comments submitted were classified into one of three categories: Accepted, Accepted with Modifications, and Rejected.

- Accepted: Comment was accepted as presented by the Commentator.
- Accepted with Modifications: Comment was accepted, however the manner in which the comment was presented, or suggested to be presented within the *SWS* was revised to be in line with the *SWS* template.
- Rejected: Comment was not accepted for inclusion within the *SWS*.

The following table presents a summary breakdown of the classification of the comments received during the final comment review period:

Classification	Number of comments
Accepted	130
Accepted with Modification	104
Rejected	133
Total	*367*

Substantive, Reoccurring Comment Themes

Substantive issues raised in the 367 comments can be divided into the following four categories:

1. Combustion Safety—68.
2. Air Sealing—27.
3. International Residential Code—22.
4. Licensed Professionals—8.

1. Combustion Safety:

a. *BPI–1100–T–2010:* The *SWS* incorporated a reference to a draft version of the BPI–1100–T–2010 document for many of the Combustion Safety specifications. Comments made on by ACCA, AGA, and RSES identified that this reference was a draft and therefore should not be included within the *SWS.* These comments are available at regulations.gov under Docket ID: EERE–2012–WE–0042. The Building Performance Institute, Inc. (BPI) officially released this standard on July 27, 2012 (now BPI–1100–T–2012). After review and consideration of the standard, DOE determined that for the purposes of the *SWS,* the draft BPI standard referenced in the *SWS* is functionally identical to BPI–1100–T–2012. This standard provides the most relevant combustion safety protocols currently available for retro-fitting existing homes under the WAP. The *SWS* has been updated in order to reflect the change in status of BPI–1100 from a draft to a published standard.

b. *ANSI/ACCA Standard 12 and NFGC:* DOE received comments from ACCA and AGA indicating that the BPI procedure for combustion safety testing should not be specified and that either the National Fuel Gas Code (NFGC) or the ACCA 12 QH standard should be used instead. These comments are available at regulations.gov under Docket ID: EERE–2012–WE–0042. Many of the comments fail to consider issues faced when working in the existing homes sector: appliances are not necessarily installed to code; other actions may have taken place over the years; and other issues that can impact venting of appliances may have been done poorly (e.g. duct leakage). The non-mandatory combustion safety testing in Annex G of the NFGC does not evaluate two of the most common causes of excessive depressurization, namely duct leakage of forced-air distribution systems and the closing of interior doors. The ACCA 12 QH standard references the BPI procedure but also lists several other options. A review of these options indicates that only the BPI procedure is sufficiently comprehensive in its requirements. For example, the procedure in ACCA 12 QH Appendix A turns on the air handler at the same time as exhaust fans, potentially obscuring the depressurization caused by the exhaust fans.

The combustion safety procedure in the BPI–1100–2012 standard is the most applicable to the work performed by the WAP. This method was retained in the *SWS.* If a suitable replacement becomes ANSI-approved it may be appropriate to modify the reference.

2. Air Sealing

a. *Reference Standards:* DOE received comments from ACCA, RSES and AHRI requesting that references be cited for action levels, as well as the addition of industry standards along with current citations to the International Residential Code. These comments are available at regulations.gov under Docket ID: EERE–2012–WE–0042. In reviewing the comments, it was apparent that the content required additional referencing that was also easily searchable in order to improve the comprehensiveness and usability of the *SWS.* Therefore, a cross-reference document was developed to allow for users to identify referenced standards for individual specification lines that is included as an Appendix to the *SWS* titled ''Appendix C: Guide to Referenced Standards''.

3. International Residential Code (IRC)

a. DOE received comments from ACCA and RSES, indicating the citation of specific sections of the 2012 IRC was not necessary. These comments are available at regulations.gov under Docket ID: EERE–2012–WE–0042. The comments identified that code sections are often revised and it would be better to cite ''2012 IRC'' versus a specific section. DOE acknowledges that code references are revised, however one of the goals of the *SWS* was to allow users to identify and find referenced information easily without having to purchase or search through numerous pages of referenced text. Due to the size of the IRC, it was apparent that referencing a specific section allowed the user to efficiently identify the section to refer to and be able to apply that knowledge quickly to the task. Therefore, citation of specific sections of the 2012 IRC remain in the *SWS.*

4. Licensed Professionals

a. DOE received comments from PHCC indicating that certain tasks should be carried out by individuals licensed in a particular trade. These comments are available at regulations.gov under Docket ID: EERE–2012–WE–0042. DOE agrees that the use of licensed professionals to perform certain tasks is an important component of maintaining work quality and safety. Given the wide range of licensure and credentialing requirements across the country, DOE made the decision to include a notification at the beginning of each detail in the *SWS* to alert the reader that the detail may contain a task requiring a licensed or credentialed contractor. This is intended to ensure that the reader is aware of the possibility of the need for a licensed or credentialed professional and to encourage them to verify this with the authority having jurisdiction.

A full comment report with responses to each comment received as well as revisions made to the content of the *SWS* can be found at: *http://nrel.pnnl.gov/forum.php*

Issued in Washington, DC, on March 5, 2013.

AnnaMaria Garcia,

Program Manager, Weatherization and Intergovernmental Programs, Energy Efficiency and Renewable Energy .

[FR Doc. 2013–07048 Filed 3–26–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Hydrogen and Fuel Cell Technical Advisory Committee (HTAC)

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

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces an open meeting of the Hydrogen and Fuel Cell Technical Advisory Committee (HTAC). The Federal Advisory Committee Act, Public Law 92–463, 86 Stat. 770, requires notice of the meeting be announced in the **Federal Register**.

DATES: Tuesday, April 23, 2013, 9:00 a.m.–5:00 p.m., Wednesday, April 24, 2013, 8:00 a.m.–11:30 a.m.

ADDRESSES: National Renewable Energy Laboratory (NREL); 901 D Street SW., Suite 930, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Email: *HTAC@nrel.gov* or at the mailing address: Joseph Stanford, Designated Federal Officer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, 1000 Independence Avenue, Washington, DC 20585.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The Hydrogen and Fuel Cell Technical Advisory Committee (HTAC) was established under section 807 of the Energy Policy Act of 2005 (EPACT), Pub. L. No. 109–58; 119 Stat. 849.

Purpose of the Meeting: To provide advice, information, and recommendations to the Secretary of Energy on the program authorized by Title VIII of EPACT.

Tentative Agenda: (updates will be posted on the Web at: *http://hydrogen.energy.gov*).

- Public Comment
- HTAC Working Group Updates
- DOE Leadership Updates
- Program and Budget Updates
- Fuel Cell and Hydrogen Industry Speakers
- Other Industry Speakers
- Government Speakers
- Transportation Updates
- Department of Defense Update
- Ohio Activities and Initiatives

Public Participation: The meeting is open to the public. Individuals who would like to attend and/or to make oral statements during the public comment period must register no later than 5:00 p.m. on Wednesday, April 17, 2013, by email at *HTAC@nrel.gov.* Foreign nationals must register no later than 5:00 p.m. on Monday, April 8, 2013. Foreign nationals will be required to fill out a questionnaire in order to have access to the meeting site and will be notified within 5–10 business days regarding their access to the meeting. An early confirmation of attendance will help to facilitate access to the building more quickly. Entry to the building will be restricted to those who have confirmed their attendance in advance. Please provide your name, organization, citizenship, and contact information. Anyone attending the meeting will be required to present government-issued identification. Those wishing to make a public comment are required to register. The public comment period will take place between 9:00 a.m. and 9:30 a.m. on April 23, 2013. Time allotted per speaker will depend on the number who wish to speak but will not exceed five minutes. Those not able to attend the meeting or have insufficient time to address the committee are invited to send a written statement to *HTAC@nrel.gov.*

Minutes: The minutes of the meeting will be available for public review at *http://hydrogen.energy.gov.*

Issued at Washington, DC, on March 21, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–07026 Filed 3–26–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

State Energy Advisory Board; Open Teleconference

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

ACTION: Notice of Open Teleconference.

SUMMARY: This notice announces a teleconference call of the State Energy Advisory Board (STEAB). The Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, April 18, 2013, from 3:30 p.m. to 4:00 p.m. (EDT). To receive the call-in number and passcode, please contact the Board's Designated Federal Officer (DFO) at the address or phone number listed below.

FOR FURTHER INFORMATION CONTACT: Gil Sperling, STEAB Designated Federal Officer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, 1000 Independence Ave. SW., Washington, DC 20585. Phone number is (202) 287–1644.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* To make recommendations to the Assistant Secretary for the Office of Energy Efficiency and Renewable Energy regarding goals and objectives, programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (Pub. L. 101–440).

Tentative Agenda: Receive an update on the activities of the STEAB's Taskforces, review follow-up items from the March meeting, and provide an update to the Board on routine business matters and other topics of interest, and work on agenda items and details for the June 2013 meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gil Sperling at the address or telephone number listed above. Requests to make oral comments must be received five days prior to the meeting; reasonable provision will be made to include requested topic(s) on the agenda. The Chair of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 60 days on the STEAB Web site at: *www.steab.org*.

Issued at Washington, DC, on March 21, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–07027 Filed 3–26–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Correction

In notice document 2013–06515, appearing on pages 17391–17392 in the issue of Thursday, March 21, 2013, make the following correction:

On page 17391, in the center column, on the thirteenth line, ''ER109–1997–000'' should read ''ER10–1997–000''.

[FR Doc. C1–2013–06515 Filed 3–26–13; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1946–003; ER11–3859–005; ER11–3863–004; ER11–3861–004; ER11–3864–005; ER11–3866–005; ER12–192–003; ER11–3867–005; ER11–3857–005; ER12–1725–001.

Applicants: Broad River Energy LLC, Dighton Power, LLC, ECP Energy I, LLC, Empire Generating Co, LLC, EquiPower Resources Management, LLC, Lake Road Generating Company, L.P., Liberty Electric Power, LLC, MASSPOWER, Milford Power Company, LLC, Red Oak Power, LLC.

Description: Supplement and Amendment to January 25, 2013 Notice of Change in Status of Broad River Energy LLC, et al.

Filed Date: 2/22/13.

Accession Number: 20130222–5110.

Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: ER13–1128–000.

Applicants: Michigan Electric Transmission Company.

Description: Filing of CIAC with Wolverine Power Supply Cooperative, Inc. to be effective 5/20/2013.

Filed Date: 3/19/13.

Accession Number: 20130319–5067.

Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: ER13–1129–000.

Applicants: Portland General Electric Company.

Description: Request for Extension of Limited Waiver of Portland General Electric Company.

Filed Date: 3/19/13.

Accession Number: 20130319–5089.

Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: ER13–1130–000.

Applicants: Monongahela Power Company, PJM Interconnection, L.L.C.

Description: Mon Power submits revisions to PJM ''OATT Att H–11A'' & new SA No. 3513 re HREA to be effective 11/1/2012.

Filed Date: 3/19/13.

Accession Number: 20130319–5097.

Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: ER13–1131–000.

Applicants: Monongahela Power Company, PJM Interconnection, L.L.C.

Description: Mon Power submits revisions to PJM OATT Att H–11A & new ''SA No. 3513'' re HREA to be effective 11/1/2012.

Filed Date: 3/19/13.

Accession Number: 20130319–5099.

Comments Due: 5 p.m. ET 4/9/13

Docket Numbers: ER13–1132–000.

Applicants: EconoPower, LLC.

Description: EconoPower, LLC submits Baseline new to be effective 3/20/2013.

Filed Date: 3/19/13.

Accession Number: 20130319–5106.

Comments Due: 5 p.m. ET 4/9/13.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF13–363–000.

Applicants: CES Sterling LLC.

Description: CES Sterling LLC submits Refund Report.

Filed Date: 3/19/13.

Accession Number: 20130319–5129.

Comments Due: 5 p.m. ET 4/9/13.

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 20, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–06990 Filed 3–26–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG13–20–000.
Applicants: Ivanpah Master Holdings, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Ivanpah Master Holdings, LLC.
Filed Date: 3/20/13.
Accession Number: 20130320–5072.
Comments Due: 5 p.m. ET 4/10/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–959–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc. submits Informational Response to the February 22, 2013 Commission Order on Rehearing.
Filed Date: 3/19/13.
Accession Number: 20130319–5038.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: ER13–1083–001.
Applicants: Union Atlantic Electricity.
Description: Amended MBR Tariff Filing to be effective 5/14/2013.
Filed Date: 3/20/13.
Accession Number: 20130320–5022.
Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: ER13–1133–000.
Applicants: Southern California Edison Company.
Description: Revised Added Facilities Rate for 4 Rate Schedule Agreements to be effective 1/1/2013.
Filed Date: 3/20/13.
Accession Number: 20130320–5002.
Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: ER13–1134–000.
Applicants: Southern California Edison Company.
Description: GIA and Distribution Service Agreement Alamo Solar LLC to be effective 3/21/2013.
Filed Date: 3/20/13.
Accession Number: 20130320–5003.
Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: ER13–1135–000.
Applicants: Piedmont Energy Fund, LP.
Description: Initial Baseline for MBR Tariff No. 1 to be effective 4/21/2014.
Filed Date: 3/20/13.
Accession Number: 20130320–5046.
Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: ER13–1136–000.
Applicants: Ivanpah Master Holdings, LLC.
Description: Ivanpah Master Holdings, LLC submits FERC Electric Tariff No. 1 to be effective 5/20/2013.
Filed Date: 3/20/13.
Accession Number: 20130320–5062.
Comments Due: 5 p.m. ET 4/10/13.

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 20, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–06991 Filed 3–26–13; 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 corporate filings:

Docket Numbers: EC13–81–000.
Applicants: Bangor Hydro Electric Company, Maine Public Service Company.
Description: Application under FPA Section 203 of Bangor Hydro Electric Company, et al.
Filed Date: 3/19/13.
Accession Number: 20130319–5035.
Comments Due: 5 p.m. ET 4/9/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1836–004; ER10–2005–004; ER11–26–004; ER10–1838–003; ER10–1839–004; ER10–2551–003; ER10–1915–003; ER12–569–004; ER10–1841–004; ER13–712–003; ER10–1843–004; ER10–1845–004; ER10–1844–004; ER10–1846–003; ER10–1849–003; ER11–2037–003; ER12–2227–003; ER10–1851–002; ER10–1852–004; ER10–1855–003; ER10–1985–003; ER10–1986–003; ER12–676–003; ER11–2192–004; ER10–1990–003; ER10–1991–004; ER12–1660–004; ER10–1993–003; ER10–1994–003; ER10–2078–005; ER10–1995–003; ER10–1857–003; ER10–1887–003; ER10–1897–004; ER10–1899–003; ER11–2365–004; ER10–1984–004; ER10–1983–004; ER10–1976–003; ER12–2444–002; ER10–1975–010; ER10–1950–004; ER10–1952–003; ER11–3635–003; ER10–2006–005; ER10–1961–003; ER12–1228–003; ER10–1963–003; R10–1964–004; ER10–1965–004; ER10–1948–002; ER10–1935–003; ER10–1932–003; ER10–1931–002; ER10–1930–002; ER11–2642–004; ER10–1928–005; ER10–1974–010; ER10–1951–004; ER10–1973–003; ER10–1972–004; ER10–1970–004; ER11–4462–005; ER12–895–003; ER12–1880–004; ER11–4428–005; ER10–2720–005; ER10–1927–004; ER10–1925–004; ER10–1920–005; ER10–1918–004; ER10–1907–004; ER10–1905–004; ER10–1903–003; ER10–1902–003; ER10–1900–003; ER10–1968–003; ER10–1967–003; ER10–1966–003; ER12–2225–002; ER12–2226–002; ER10–1847–001; ER10–1856–001; ER11–2160–001; ER10–1906–001; ER10–1962–001; ER11–4677–002; ER10–1989–001; ER11–4678–002; ER12–631–002; ER10–1971–009; ER10–1890–001; ER10–1992–001.

Applicants: Ashtabula Wind, LLC, Ashtabula Wind II, LLC, Ashtabula Wind III, LLC, Backbone Mountain Windpower LLC, Badger Windpower, LLC, Baldwin Wind, LLC, Bayswater Peaking Facility, LLC, Blackwell Wind, LLC, Butler Ridge Wind Energy Center, LLC, Cimarron Wind Energy, LLC, Crystal Lake Wind, LLC, Crystal Lake Wind II, LLC, Crystal Lake Wind III, LLC, Day County Wind, LLC, Elk City Wind, LLC, Elk City II Wind, LLC, Ensign Wind, LLC, ESI Vansycle Partners, L.P., Florida Power & Light Company, FPL Energy Burleigh County Wind, LLC., FPL Energy Cape, LLC, FPL Energy Cowboy Wind, LLC, FPL Energy Hancock County Wind, LLC, FPL Energy Illinois Wind, LLC, FPL Energy Maine Hydro, LLC, FPL Energy Marcus

Hook, L.P., FPL Energy MH50 L.P., FPL Energy Mower County, LLC, FPL Energy North Dakota Wind, LLC, FPL Energy North Dakota Wind II, LLC, FPL Energy Oklahoma Wind, LLC, FPL Energy Oliver Wind I, LLC, FPL Energy Oliver Wind II, LLC, FPL Energy Sooner Wind, LLC, FPL Energy South Dakota Wind, LLC, FPL Energy Stateline II, Inc., FPL Energy Vansycle, L.L.C., FPL Energy Wyman, LLC,FPL Energy Wyman IV, LLC, FPL Energy Wyoming, LLC, Garden Wind, LLC, Gray County Wind Energy, LLC, Hatch Solar Energy Center I, LLC, Hawkeye Power Partners, LLC, High Majestic Wind Energy Center, LLC, High Majestic Wind II, LLC, Jamaica Bay Peaking Facility, LLC, Lake Benton Power Partners II, LLC, Langdon Wind, LLC, Limon Wind, LLC, Limon Wind II, LLC, Logan Wind Energy LLC, Meyersdale Windpower LLC, Mill Run Windpower, LLC, Minco Wind, LLC, Minco Wind II, LLC, Minco Wind III, LLC, Minco Wind Interconnection Services, LLC, NEPM II, LLC, NextEra Energy Duane Arnold, LLC, NextEra Energy Point Beach, LLC, NextEra Energy Seabrook, LLC, NextEra Energy Services Massachusetts, LLC, Northeast Energy Associates, A Limited Partnership, North Jersey Energy Associates, A Limited Partnership, North Sky River Energy, LLC, Northern Colorado Wind Energy, LLC, Osceola Windpower, LLC, Osceola Windpower II, LLC, Paradise Solar Urban Renewal, L.L.C., Peetz Table Wind Energy, LLC, Pennsylvania Windfarms, Inc., Perrin Ranch Wind, LLC, Red Mesa Wind, LLC, Somerset Windpower, Story Wind, LLC, Tuscola Bay Wind, LLC, Waymart Wind Farm, L.P., Wessington Wind Energy Center, LLC, White Oak Energy LLC, Wilton Wind II, LLC, Diablo Winds, LLC, FPL Energy Cabazon Wind, LLC, FPL Energy Green Power Wind, LLC, FPL Energy Montezuma Wind, LLC, FPL Energy New Mexico Wind, LLC, High Winds, LLC, NextEra Energy Montezuma II Wind, LLC, NextEra Energy Power Marketing, LLC, Sky River LLC, Vasco Winds, LLC, Victory Garden Phase IV, LLC, Windpower Partners 1993, LLC.

Description: Amendment to December 20, 2012 NextEra Resources Entities Notification of Non-material Change in Status in the California ISO, Inc. balancing authority area.

Filed Date: 3/19/13.

Accession Number: 20130319–5033.

Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: ER13–657–001.

Applicants: Public Service Company of Colorado.

Description: 2013–03–18–NSP–WKFLD-Tran-to Load-550 to be effective 1/1/2013.

Filed Date: 3/18/13.

Accession Number: 20130318–5101.

Comments Due: 5 p.m. ET 4/8/13.

Docket Numbers: ER13–1120–000.

Applicants: Bluesource Energy LLC.

Description: Initial MBR filing to be effective 4/5/2013.

Filed Date: 3/18/13.

Accession Number: 20130318–5147.

Comments Due: 5 p.m. ET 4/8/13.

Docket Numbers: ER13–1121–000.

Applicants: Peetz Logan Interconnect, LLC.

Description: Peetz Logan Interconnect, LLC's Application to Support Modifications to the OATT to be effective 11/1/2011.

Filed Date: 3/18/13.

Accession Number: 20130318–5148.

Comments Due: 5 p.m. ET 4/8/13.

Docket Numbers: ER13–1122–000.

Applicants: Southern California Edison Company.

Description: Citrus Pump Station Wholesale Dist Load IFA with CA Dept of Water Resources to be effective 3/20/2013.

Filed Date: 3/19/13.

Accession Number: 20130319–5000.

Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: ER13–1123–000.

Applicants: Southwest Power Pool, Inc.

Description: Petition of Southwest Power Pool, Inc. For Waiver of Tariff Provisions.

Filed Date: 3/18/13.

Accession Number: 20130318–5170.

Comments Due: 5 p.m. ET 4/1/13.

Docket Numbers: ER13–1125–000.

Applicants: Bangor Hydro Electric Company.

Description: Request for Waiver of Bangor Hydro Electric Company.

Filed Date: 3/19/13.

Accession Number: 20130319–5037.

Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: ER13–1126–000.

Applicants: Luminant Energy Company LLC.

Description: Luminant Energy Company LLC submits tariff filing per 35.15: Notice of Cancellation to be effective 3/20/2013.

Filed Date: 3/19/13.

Accession Number: 20130319–5041.

Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: ER13–1127–000.

Applicants: Orange and Rockland Utilities, Inc.

Description: Orange and Rockland Utilities, Inc. submits tariff filing per 35.13(a)(2)(iii: O&R Undergrounding Rate 3.19.13 to be effective 4/1/2013.

Filed Date: 3/19/13.

Accession Number: 20130319–5042.

Comments Due: 5 p.m. ET 4/9/13.

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 19, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–06993 Filed 3–26–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1139–000]

Imperial Valley Solar 1, LLC: Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Imperial Valley Solar 1, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is April 10, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 21, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–06988 Filed 3–26–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1120–000]

Bluesource Energy LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

(March 21, 2013)

This is a supplemental notice in the above-referenced proceeding, of Bluesource Energy LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is April 10, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 21, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–06997 Filed 3–26–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1107–000]

FM Energy Scheduling, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of FM Energy Scheduling, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is April 10, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 21, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–06996 Filed 3–26–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1135–000]

Piedmont Energy Fund, LP; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Piedmont Energy Fund, LP's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is April 10, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 21, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–06999 Filed 3–26–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1104–000]

Just Energy Illinois Corp.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Just Energy Illinois Corp.'s application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is April 10, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 21, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–06995 Filed 3–26–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1132–000]

EconoPower, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of EconoPower, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is April 10, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor

must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 21, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–06998 Filed 3–26–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1101–000]

Spectrum Nevada Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Spectrum Nevada Solar, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is April 10, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 21, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–06994 Filed 3–26–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1136–000]

Ivanpah Master Holdings, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Ivanpah Master Holdings, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is April 10, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 21, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–07000 Filed 3–26–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1100–000]

Energy Technology Savings LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Energy Technology Savings LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is April 10, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 21, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–06992 Filed 3–26–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2012–0442; FRL–9382–5]

FIFRA Pesticide Registration Review and ESA Consultation Processes; Stakeholder Input; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing the availability of the final paper describing enhanced opportunities for stakeholder input during its review of pesticide registrations under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and associated consultations under the Endangered Species Act (ESA). The paper was jointly prepared by EPA, the U.S. Department of Agriculture (USDA), and the National Marine Fisheries Service (NMFS) in the U.S. Department of Commerce and the U.S. Fish and Wildlife Service (USFWS) in the Department of Interior (collectively, the Services). The paper describes significant changes to EPA's registration review process intended to facilitate ESA pesticide consultations and coordination across these Federal agencies, and calls for a greater role for USDA. EPA accepted public comment on the proposed changes for 60 days, and then reviewed the comments received. Subsequently, EPA, USDA, and the Services revised the paper to outline specific roles and responsibilities for each agency, and to provide clarifying information on focus meetings and the timing for public input.

FOR FURTHER INFORMATION CONTACT: Richard P. Keigwin, Jr., Pesticide Re-evaluation Division (7501P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8000; fax number: (703) 308–8005; email address: *Keigwin.Richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, buy, sell, distribute, or use pesticide products.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0442, 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.*

II. Background

EPA is announcing the availability of a document titled, ''Enhancing Stakeholder Input in the Pesticide Registration Review and ESA Consultation Processes and Development of Economically and Technologically Feasible Reasonable and Prudent Alternatives.'' A copy of this document is available in the docket at *http://www.regulations.gov* under docket ID number EPA–HQ–OPP–2012–0442. The document describes changes to EPA's pesticide registration review program and how it conducts consultation with the Services under section 7 of the ESA. In an effort to be responsive to stakeholders' desires for a mechanism to get information into the registration review process as early as possible, EPA is holding ''focus'' meetings at the start of registration review for each active ingredient. In response to stakeholders' desires for a more open, reliable, and transparent pesticide consultation process, EPA will initiate any needed formal ESA consultations at a later stage in the review process. Consulting later in the registration review process allows EPA to develop more refined ecological risk assessments and to engage affected stakeholders in discussions that should result in more focused consultation packages inclusive of mitigation for listed species. There is a consensus that EPA and the Services should engage informally and early in the consultation process, but that formal consultation

should be reserved until EPA's ecological risk assessment and proposed decision are more fully formed. This approach has the potential to maximize the opportunity to effect changes that provide protections for species and their designated critical habitat, lessen the impacts on agriculture, and narrow the scope of the Federal action.

Additionally, the document describes EPA's plans to reach out to pesticide users potentially affected to discuss the technological and economic feasibility of reasonable and prudent alternatives (RPAs) intended to avoid jeopardy to threatened and/or endangered species. The USDA's relationships with the agricultural community provide a critical link between EPA's expertise on pesticides and the Services' expertise on listed species' locations, status and biology.

Finally, the document describes the process by which public comments received on RPAs will be summarized and organized by EPA and provided to the Services, who will prepare a document to be included in the administrative record of the consultation explaining how comments were considered, and if appropriate, how the final biological opinion was modified to address the comments. The Services will provide the document to EPA, and both the Services and EPA will make the document available to the public upon request. These process changes are intended to provide clarity and transparency to the ESA section 7 consultation process for pesticides.

List of Subjects

Environmental protection, Endangered species, Pesticide registration review, Section 7 ESA consultation.

Dated: March 19, 2013.

Steven Bradbury,

Director, Office of Pesticide Programs.

[FR Doc. 2013–06920 Filed 3–26–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2013–0121; FRL–9381–9]

Registration Review; Pesticide Dockets Opened for Review and Comment and Other Docket Acts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: With this document, EPA is opening the public comment period for several registration reviews. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Registration review dockets contain information that will assist the public in understanding the types of information and issues that the Agency may consider during the course of registration reviews. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment. This document also announces the Agency's intent not to open registration review dockets for iodomethane or ethametsulfuron-methyl. Iodomethane and ethametsulfuron-methyl are undergoing phase-outs of all U.S. pesticide registrations. The cancellations of the iodomethane end use registrations became effective on December 31, 2012, and the cancellation of the sole technical product registration will become effective on December 1, 2015. The cancellations of all ethametsulfuron-methyl product registrations became effective on February 20, 2013. Therefore, iodomethane and ethametsulfuron-methyl are not scheduled for review under the registration review program.

This document also announces the registration review case closures for the pesticides alkyl amine hydrochloride (case #3051) and halofenozide (case #7425), and the availability of their respective Case Closure Documents. The cancellation of all alkyl amine hydrochloride registrations became effective on October 17, 2012. The cancellation of all U.S. halofenozide registrations became effective December 21, 2012. These case closure are being announced herein with no comment period.

DATES: Comments must be received on or before May 28, 2013.

ADDRESSES: Submit your comments identified by the docket identification (ID) number for the specific pesticide of interest provided in the table in Unit III.A., by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information contact:* The Chemical Review Manager identified in the table in Unit III.A. for the pesticide of interest.

For general information contact: 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) 308–8090; 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, farmworker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide(s) discussed in this document, compared to the general population.

II. Authority

EPA is initiating its reviews of the pesticides identified in this document pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

A. What action is the agency taking?

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registrations identified in the table in this unit to assure that they continue to satisfy the FIFRA standard for registration—that is, they can still be used without unreasonable adverse effects on human health or the environment. A pesticide's registration review begins when the Agency establishes a docket for the pesticide's registration review case, and opens the docket for public review and comment. At present, EPA is opening registration review dockets for the cases identified in the following table.

TABLE—REGISTRATION REVIEW DOCKETS OPENING

Registration review case name and No.	Docket ID No.	Chemical review manager telephone No., email address
Alkylbenzene sulfonates (ABS) (Case #4006)	EPA–HQ–OPP–2013–0097	Wanda Henson, 703–308–6345, *henson.wanda@epa.gov*.
Bacillus sphaericus (Case #6052)	EPA–HQ–OPP–2013–0116	Shanaz Bacchus, 703–308–8097, *bacchus.shanaz@epa.gov*.
Bromoxynil and esters (Case #2070)	EPA–HQ–OPP–2013–0896	Margaret Hathaway, 703–305–5076, *hathaway.margaret@epa.gov*.
Dimethomorph (Case #7021)	EPA–HQ–OPP–2013–0045	Monica Wait, 703–347–8019, *wait.monica@epa.gov*.
EPTC (Case #64)	EPA–HQ–OPP–2012–0720	Carissa Cyran, 703–347–8781, *cyran.carissa@epa.gov*.
Fluopicolide (Case #7055)	EPA–HQ–OPP–2013–0037	Rusty Wasem, 703–305–6979, *wasem.russell@epa.gov*.
Gibberellins (Case #4110)	EPA–HQ–OPP–2012–0939	Menyon Adams, 703–347–8496, *adams.menyon@epa.gov*.
Iodosulfuron-methyl-sodium (Case #7253)	EPA–HQ–OPP–2012–0717	Katherine St. Clair, 703–347–8778, *st. clair.katherine@epa.gov*.
Monosodium Methanearsonate (MSMA), also known as Methanearsonic acid salts (Case #2395).	EPA–HQ–OPP–2013–0107	Garland Waleko, 703–308–8049, *waleko.garland@epa.gov*.
Niclosamide (Case #2455) and TFM/Lampricide (Case #3082)	EPA–HQ–OPP–2013–0137	Kelly Ballard, 703–305–8126, *ballard.kelly@epa.gov*.
Octenol (Case #6033)	EPA–HQ–OPP–2012–0940	Leonard Cole, 703–305–5412, *cole.leonard@epa.gov*.
1-Octadecanaminium, ride (Case #5100).	EPA–HQ–OPP–2013–0096	Elizabeth Hernandez, 703–347–0241, *hernandez.elizabeth@epa.gov*.
Prometon (Case #2545)	EPA–HQ–OPP–2013–0068	Steven Snyderman 703–347–0249, *snyderman.steven@epa.gov*.
Prometryn (Case #467)	EPA–HQ–OPP–2013–0032	Christina Scheltema, 703–308–2201, *scheltema.christina@epa.gov*.
Trichloromelamine (TCM) (Case #3144)	EPA–HQ–OPP–2013–0086	Seiichi Murasaki, 703–347–0163, *murasaki.seiichi@epa.gov*.
Triclosan (Case #2340)	EPA–HQ–OPP–2012–0811	Sandra O'Neill, 703–347–0141, *oneill.sandra@epa.gov*.
Trifloxystrobin (Case #7028)	EPA–HQ–OPP–2013–0074	Moana Appleyard, 703–308–8175, *appleyard.moana@epa.gov*.

TABLE—REGISTRATION REVIEW DOCKETS OPENING—Continued

Registration review case name and No.	Docket ID No.	Chemical review manager telephone No., email address
Trimethoxysilyl quats (Case #3148)	EPA–HQ–OPP–2013–0095	Elizabeth Hernandez, 703–347–0241, *hernandez.elizabeth@epa.gov*.
T99 (1-Tetradecanaminium,*N,N*-dimethyl-*N*-[3-(trimethoxysilyl) propyl]-,chloride) (Case #5113).	EPA–HQ–OPP–2013–0085	Elizabeth Hernandez, 703–347–0241, *hernandez.elizabeth@epa.gov*.

EPA is announcing that it will not be opening a docket for iodomethane. As per a November 14, 2012, Memorandum of Agreement between the Agency and the sole iodomethane registrant, Arysta LifeScience North America, LLC., iodomethane is undergoing a phase-out of all U.S. pesticide registrations. The cancellations of the end use registrations became effective on December 31, 2012. The cancellation of the sole technical product registration will become effective on December 1, 2015. The **Federal Register** notice announcing the Agency's receipt of the request for voluntary cancellation of all iodomethane product registrations was published for public comment on November 21, 2012 (77 FR 69840) (FRL–9370–2). The public comment period closed on December 21, 2012. One comment was received, and the comment was addressed in the cancellation order for iodomethane registrations that was published in the **Federal Register** on January 16, 2013 (78 FR 3417) (FRL–9375–9). Because the last iodomethane registration will be cancelled as of December 1, 2015, EPA will not schedule iodomethane for review under the registration review program.

EPA is also announcing that it will not be opening a docket for ethametsulfuron-methyl. The cancellation of all product registrations became effective on February 20, 2013. The **Federal Register** notice announcing the Agency's receipt of the request for voluntary cancellation of all ethametsulfuron-methly product registrations was published for public comment on December 5, 2012 (77 FR 72343) (FRL–9370–4). No comments were submitted to the Agency. The **Federal Register** notice announcing the Agency's cancellation of all ethametsulfuron-methyl product registrations was published on February 20, 2013 (78 FR 11879) (FRL–9377–2).

This notice also announces the registration review case closures for the pesticides alkyl amine hydrochloride (case #3051) and halofenozide (case #7425), and the availability of their respective Case Closure Documents. For alkyl amine chloride, the Notice of Receipt of a Request to Voluntarily Cancel Certain Pesticide Registrations was issued on February 29, 2012, and no public comments received during the 30-day comment period impacted the Agency's decision to grant the cancellation request. On October 17, 2012, the Agency published the Cancellation Order for all alkyl amine hydrochloride product registrations in the **Federal Register** (77 FR 63829) (FRL–9365–9). Due to the cancellation of all registered alkyl amine hydrochloride products in the United States, the Agency closed the registration review case for alkyl amine hydrochloride, pursuant to 40 CFR 155.42(c). In addition to the registration review Case Closure Document, the registration review docket (EPA–HQ–OPP–2007–1039) for alkyl amine hydrochloride, also includes other relevant documents related to the registration review of this case. This action is not open for public comment.

For halofenozide, the Notice of Receipt of Requests to Voluntarily Cancel Pesticide Registrations and Terminate All Uses was issued on September 26, 2012, for a 30-day public comment period (77 FR 59190) (FRL–9362–9); the Agency did not receive any comments. On December 21, 2012, the Agency issued the Cancellation Order for All Pesticide Registrations and Termination of All Uses for Halofenozide (77 FR 75631) (FRL–9373–6). All U.S. halofenozide pesticide registrations have been cancelled, effective December 21, 2012. Due to the cancellation of all halofenozide products in the United States, the Agency closed the registration review case for halofenozide, pursuant to 40 CFR 155.42(c). The Halofenozide Case Closure Document, is available in its registration review docket (EPA–HQ–OPP–2012–0231) along with other relevant documents related to the registration review of this case. This action is not open for public comment.

B. Docket Content

1. *Review dockets.* The registration review dockets contain information that the Agency may consider in the course of the registration review. The Agency may include information from its files including, but not limited to, the following information:

- An overview of the registration review case status.
- A list of current product registrations and registrants.
- **Federal Register** notices regarding any pending registration actions.
- **Federal Register** notices regarding current or pending tolerances.
- Risk assessments.
- Bibliographies concerning current registrations.
- Summaries of incident data.
- Any other pertinent data or information.

Each docket contains a document summarizing what the Agency currently knows about the pesticide case, and a preliminary work plan for anticipated data and assessment needs. Additional documents provide more detailed information. During this public comment period, the Agency is asking that interested persons identify any additional information they believe the Agency should consider during the registration reviews of these pesticides. The Agency identifies in each docket the areas where public comment is specifically requested, though comment in any area is welcome.

2. *Other related information.* More information on these cases, including the active ingredients for each case, may be located in the registration review schedule on the Agency's Web site at *http://www.epa.gov/oppsrrd1/registration_review/schedule.htm.* Information on the Agency's registration review program and its implementing regulation may be seen at *http://www.epa.gov/oppsrrd1/registration_review.*

3. *Information submission requirements.* Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.

• The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.

• Submitters must clearly identify the source of any submitted data or information.

• Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: March 19, 2013.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2013–07076 Filed 3–26–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9794–7]

EPA Office of External Affairs and Environmental Education; Request for Nominations of Candidates for the National Environmental Education Advisory Council

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) Office of External Affairs and Environmental Education (OEAEE) Staff Office is soliciting applications for environmental education professionals for consideration on the National Environmental Education Advisory Council (NEEAC). There is one vacancy on the Advisory Council that must be filled. This vacancy is for the State Department of Education and Natural Resources position. Additional avenues and resources may be utilized in the solicitation of applications. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups.

DATES: Applications should be submitted by April 15, 2013 per instructions below.

ADDRESSES: Submit non-electronic application materials to Javier Araujo, Designated Federal Officer, National Environmental Education Advisory Council, U.S. Environmental Protection Agency, Office of External Affairs and Environmental Education (MC:1704A), 1200 Pennsylvania Ave. NW., Room 1426(ARN), Washington, DC 20460, Ph: 202–564–2642, FAX: 202–564–2753, *email:araujo.javier@epa.gov.*

FOR FURTHER INFORMATION CONTACT: For information regarding this Request for Nominations, please contact Mr. Javier Araujo, Designated Federal Officer (DFO), EPA National Environmental Education Advisory Council, at the contact information provided above. General information concerning NEEAC can be found on the EPA Web site at: *http://www.epa.gov/enviroed/.*

SUPPLEMENTARY INFORMATION: The National Environmental Education Act requires that the Council be comprised of eleven (11) members appointed by the Administrator of EPA. Members represent a balance of perspectives, professional qualifications, and experience. The Act specifies that members must represent the following sectors: Primary and secondary education (one of whom shall be a classroom teacher)—two members; colleges and universities—two members; business and industry—two members; non profit organizations involved in environmental education—two members; state departments of education and natural resources—one member each; senior Americans—one member. Members are chosen to represent various geographic regions of the country, and the Council strives for a diverse representation. The professional backgrounds of Council members should include education, science, policy, or other appropriate disciplines. Each member of the Council shall hold office for a one (1) to three (3) year period. Members are expected to participate in up to two (2) meetings per year and monthly or more conference calls per year. Members of the Council shall receive compensation and allowances, including travel expenses, at a rate fixed by the Administrator.

Expertise Sought: The OEAEE staff office seeks candidates with demonstrated experience and/or knowledge in any of the following environmental education issue areas: (a) Integrating environmental education into state and local education reform and improvement; (b) state, local and tribal level capacity building; (c) cross-sector partnerships; (d) leveraging resources for environmental education; (e) design and implementation of environmental education research; (f) evaluation methodology; professional development for teachers and other education professionals; and targeting under-represented audiences, including low-income, multi-cultural, senior citizens and other adults.

Candidates should be team players who demonstrate strong analytical, communication and writing skills.

How to Submit Applications: Any interested and qualified individuals may be considered for appointment on the National Environmental Education Advisory Council. Applications should be submitted in electronic format to the DFO, Javier Araujo, at: *araujo.javier@epa.gov* and contain the following: contact information including name, address, phone and fax numbers and an email address; a curriculum vitae or resume; the specific area of expertise in environmental education; recent service on other national advisory committees or national professional organizations and a one-page commentary on the applicant's philosophy regarding the need for, development, implementation and/or management of environmental education nationally.

Persons having questions about the application procedure or who are unable to submit applications by electronic means should contact Javier Araujo, DFO, at the contact information provided above in this notice. Non-electronic submissions must contain the same information as electronic ones. The OEAEE Staff Office will acknowledge receipt of the application. The OEAEE Staff Office will develop a short list of candidates for more detailed consideration. The short list candidates will be required to fill out the Confidential Disclosure Form for Special Government Employees Serving Federal Advisory Committees at the U.S. Environmental Protection Agency (EPA Form 3110–48). This confidential form allows government officials to determine whether there is a statutory conflict between that person's public responsibilities (which include membership on a Federal advisory committee) and private interests and activities and the appearance of a lack of impartiality as defined by Federal regulation. The form may be viewed and

downloaded from the following URL address: *http://www.epa.gov/oppt/aegl/pubs/ethics_form.pdf.*

Dated: March 14, 2013.

Javier Araujo,

Designated Federal Officer.

[FR Doc. 2013–07089 Filed 3–26–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0191; FRL–9380–4]

Organic Arsenicals; Amendments to Terminate Uses; Amendment to Existing Stocks Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA issued a document in the **Federal Register** of September 30, 2009 (74 FR 50187) (FRL–8437–7) concerning the cancellations and amendments of pesticide products containing organic arsenicals. A portion of the voluntary cancellation request giving rise to the 2009 document was conditioned upon the convening of a public scientific peer review process that would address the mode of action for carcinogenic effects of inorganic arsenic. Because the peer review process has not yet occurred, the cancellations of the sod farm, golf course, and highway rights-of-way uses identified in the 2009 document were improperly finalized, and the existing stocks provisions for all remaining products containing the organic arsenical monosodium methanearsonate (MSMA) will be corrected as noted in Unit II. of this document. In addition, this document clarifies that existing stocks of products already in the hands of users as of December 31, 2010, containing MSMA labeled for all uses, except cotton, sod farms, golf courses, and highway rights-of-way and products containing disodium methanearsonate (DSMA), calcium acid methanearsonate (CAMA), and cacodylic acid and its sodium salt, can be used legally until they are exhausted, provided that such use complies with the EPA-approved label and labeling accompanying the affected product.

FOR FURTHER INFORMATION CONTACT: Tom Myers, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8589; email address: *myers.tom@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, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2009–0191, 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.*

II. Background

The voluntary cancellation request identified in the 2009 document (74 FR 50187) was based upon a negotiated Agreement in Principle to Implement the Organic Arsenicals Reregistration Eligibility Decision dated January 16, 2009. Under that Agreement, certain uses were to be cancelled unconditionally, while others were subject to future cancellation conditionally. The products that were cancelled unconditionally in the 2009 document were MSMA labeled for residential; forestry; non-bearing fruit and nuts; citrus, bearing and non-bearing; bluegrass, fescue and ryegrass grown for seed; drainage ditch banks; railroad, pipeline, and utility rights-of-way; fence rows; storage yards; and similar non-crop areas and all products containing DSMA, CAMA, cacodylic acid and its sodium salt. Regarding the golf course, sod farms, and highway rights-of-way uses, paragraph 3 of that agreement provided that EPA would convene a public meeting of either the Agency's Scientific Advisory Board, the Scientific Advisory Panel, or both to evaluate any new data on the mode of action of inorganic arsenicals, and paragraph 6 of the agreement provided that, before the cancellations of golf course, sod farms, and highway rights-of-way uses of MSMA would take effect, EPA would make a written determination whether EPA believes that the science on the mode of action has changed sufficiently to warrant the continued registration of those uses. Thus, a portion of the cancellation request and existing stocks provision of the 2009 document were conditioned upon the timely completion of the peer review process and EPA's written determination thereto.

In light of a Congressional directive to have the National Academy of Sciences (NAS) look at the mode of action for carcinogenic effects by inorganic arsenic, EPA and the arsenic registrants recently agreed to modify paragraph 3 of the agreement to include the NAS as a third potential peer review body, one of which must hold a public meeting on the mode of action before the last use cancellations can be finalized. It is EPA's current intention to rely on the NAS for the peer review of the mode of action issue although EPA retains the right to utilize either of the Agency's scientific peer review bodies if it later determines that would be more appropriate. The NAS final report is currently scheduled to be completed in late 2015. See the letter from Richard P. Keigwin Jr., Director, Pesticide Re-evaluation Division, to Lynn Bergeson on behalf of the Organic Arsenical Products Task Force dated September 14, 2012 regarding the modification to paragraph 3 of Agreement in Principle, located in docket number EPA–HQ–OPP–2009–0191.

In the cancellation order of the 2009 document registrants would have been prohibited from selling and distributing products containing MSMA for use on sod farms, golf courses, and highway rights-of-way after December 31, 2012. Persons other than registrants would have been prohibited from selling and distributing products containing MSMA for use on sod farms, golf courses, and highway rights-of-way after June 30, 2013, and after December 31, 2013 use of products containing MSMA labeled for all uses, except cotton would have been prohibited. All of those prohibitions were predicated, among other things, upon the convening of a scientific peer review to evaluate the mode of action of inorganic arsenicals, and the agreement contained a provision delaying the effective date of cancellation (and the related existing stocks provision) until such time as the Agency provides a written determination regarding the peer review

evaluation. Because that peer review process has not yet occurred, the related cancellations can not yet be finalized.

Pursuant to the agreement, a number of registrants amended their registrations to require the addition of label statements identifying December 31, 2013 as the last date the product could be used legally on sod farms, golf courses, and highway rights-of-way. In light of the fact, as discussed in this Unit, that the cancellations of products registered for use on sod farms, golf courses, and highway rights-of-way did not become effective in 2009, and that these uses remain registered, registrants have submitted labels removing the restrictive statement prohibiting use of the product on sod farms, golf courses, and highway rights-of-way after December 31, 2013. All products with labels that include the prohibitive language must be used according to their labels. EPA intends to issue a new cancellation order when and if cancellation of these uses is proper under the terms of the agreement.

Finally, as to the uses that were cancelled in the 2009 document without regard to the conduct of a peer review of the mode of action of inorganic arsenicals, EPA is clarifying that existing stocks of products in users' hands as of December 31, 2010, containing MSMA labeled for residential; forestry; non-bearing fruit and nuts; citrus, bearing and non-bearing; bluegrass, fescue and ryegrass grown for seed; drainage ditch banks; railroad, pipeline, and utility rights-of-way; fence rows; storage yards; and similar non-crop areas and products containing DSMA, CAMA, cacodylic acid and its sodium salt, can be used legally until they are exhausted, provided that such use complies with the EPA-approved label and labeling accompanying the affected product. This was the intent of the original order, but some language in the order may have suggested incorrectly that such use of existing stocks would be terminated after December 31, 2013.

III. What does this document do?

In light of the fact that a portion of the cancellation was improperly finalized, EPA is issuing this document to alert registrants, users, and others that the cancellation of products registered for use on sod farms, golf courses, and highway rights-of-way in the 2009 document is not effective, and that the order and existing stocks provision did not go into effect on September 30, 2009. That portion of the cancellation order will not be proper until EPA has addressed in writing the recommendations of a peer review panel pursuant to paragraph 6 of the Agreement in Principle. When and if that portion of the voluntary cancellation becomes effective, persons other than registrants will have at least six additional months to sell and distribute existing stocks of the cancelled product, and users will have at least one additional year to use existing stocks of cancelled product (provided use is consistent with the previously-approved labeling of the particular product in the users' hands).

In addition, EPA is clarifying that existing stocks of products in users' hands as of December 31, 2010, containing MSMA labeled for residential; forestry; non-bearing fruit and nuts; citrus, bearing and non-bearing; bluegrass, fescue and ryegrass grown for seed; drainage ditch banks; railroad, pipeline, and utility rights-of-way; fence rows; storage yards; and similar non-crop areas and products containing DSMA, CAMA, cacodylic acid and its sodium salt, can be used legally until they are exhausted, provided that such use complies with the EPA-approved label and labeling accompanying the affected product.

List of Subjects

Environmental protection, MSMA, organic arsenicals, pesticides.

Dated: March 19, 2013.

Richard P. Keigwin Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2013–07074 Filed 3–26–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid control number. Comments are requested concerning whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written comments should be submitted on or before April 26, 2013. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via fax 202–395–5167, or via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov <mailto:PRA@fcc.gov>* and to *Cathy.Williams@fcc.gov*. Include in the comments the OMB control number as shown in the ''Supplementary Information'' section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *<http://www.reginfo.gov/public/do/PRAMain>,* (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A

copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0874.

Title: FCC Form 2000 A through G, FCC Form 475–B, FCC Form 1088 A through H, and FCC Form 501-Consumer Complaint Forms: General Complaints, Obscenity or Indecency Complaints, Complaints under the Telephone Consumer Protection Act, and Slamming Complaints.

Form Number: FCC Form 2000 A through G, FCC Form 475–B, FCC Form 1088 A through H, and FCC Form 501.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit entities; Not-for-profit institutions; State, local or Tribal Government.

Number of Respondents and Responses: 314,783 respondents; 314,783 responses.

Estimated Time per Response: 15 to 30 minutes per form on average.

Frequency of Response: On occasion reporting requirement.

Obligation To Respond: Voluntary.

Total Annual Burden: 150,607 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's updated system of records notice (SORN), FCC/CGB–1, ''Informal Complaints and Inquiries'', which became effective on January 25, 2010.

Privacy Impact Assessment: The Privacy Impact Assessment (PIA) for Informal Complaints and Inquiries was completed on June 28, 2007. It may be reviewed at *http://www.fcc.gov/omd/privacyact/Privacy—Impact—Assessment.html.* The Commission is in the process of updating the PIA to incorporate various revisions to it as a result of revisions to the SORN.

Needs and Uses: The FCC Form 2000 Consumer Complaint Forms asks the complainants to provide their contact information, including address, telephone number, and email address, and to briefly describe the nature of the complaint, including the communications entities against which the complaint is lodged, the consumer's account number(s), if applicable, the date(s) on which the incident(s) occurred, and the type of resolution the consumer is seeking. The Commission uses the information to resolve the consumer's informal complaint(s). The FCC Form 2000 A through F will remain unchanged. Consumers may now file complaints about loud commercials using the Commission's online complaint form (specifically, the Form 2000G). Consumers may also file their complaint by fax or by letter. The information obtained by consumer complaints will be used by Commission staff to evaluate and ensure that TV stations and MVPDs are in compliance with the rules implementing the Commercial Advertisement Loudness Mitigation (''CALM'') Act.

The FCC Form 475–B Consumer Complaint Form asks complainants to provide their contact information, including address, telephone number, and email address, and to describe their complaint(s) and issue(s) concerning the practices of telecommunications entities, which they believe may have aired obscene, profane, and/or indecent programming. The FCC Form 475–B will remain unchanged. The FCC Form 1088 Consumer Complaint Form asks complainants to provide their contact information, including address, telephone number, and email address, and to describe their complaints and issues regarding ''Do Not Call'' and ''Junk Fax'' as well as other related consumer protection issues such as prerecorded messages, automatic telephone dialing systems, and unsolicited commercial email messages to wireless telecommunications devices. The FCC Form 1088 A through H will remain unchanged. The FCC Form 501 Consumer Complaint Form asks complainants to provide their contact information, including address, telephone number, and email address, and to describe their complaints and issues regarding alleged slamming violations. The FCC Form 501 will remain unchanged.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–06962 Filed 3–26–13; 8:45 am]

BILLING CODE 6712–01–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.*

Accelerated Maritime Services, LLC dba AMS Breakbulk Lines (NVO & OFF) 4008 Louetta, Suite 183, Spring, TX 77388, Officer: Cory C. Guccione, President (QI), Application Type: New NVO & OFF License

Barcol International Corporation (NVO & OFF), 6952 NW 51st Street, Miami, FL 33166, Officers: Juan Salvat, President (QI), Carmen S. Salvat, Vice President, Application Type: Add NVO Service

Bayshore Logistics & Services, LLC (NVO & OFF), 909 Westfield Avenue, Elizabeth, NJ 07208, Officers: Raquel Velez, Operating Manager (QI), Jose Moreno, Member, Application Type: New NVO & OFF License

Canaan Shipping USA LLC (NVO & OFF), 100 Oceangate, 12th Floor, Long Beach, CA 90802, Officer: Fred Chou, Manager (QI), Application Type: New NVO & OFF License

Chester Transport, Inc. (NVO & OFF), 46090 Lake Center Plaza, Suite 208, Sterling, VA 20165, Officer: Steven McDonald, President (QI), Application Type: New (NVO & OFF)

Gruden USA Inc. dba Lybra Overseas Shipping (NVO), 51 Newark Street, Suite 302, Hoboken, NJ 07030, Officers: Luca De Pieri, President (QI), Carmen T. Rodriquez, Secretary, Application Type: Additional QI

La Plaza Embarque Limited Liability Company (NVO & OFF), 328 Lawrence Street, Perth Amboy, NJ 08861, Officer: Edward Pantaleon, Manager (QI), Application Type: New NVO & OFF License

Latunde Ayopo Sapara dba L.A.S. Shipping (NVO & OFF), 550 Ginger Lane, Suite 18, Calumet City, IL 60409, Officer: Latunde A. Sapara, Chief Executive Manager (QI), Application Type: Business Structure Change to L.A.S. Shipping L.L.C. & Add NVO Service

Logistics International Parcel Shipping Transport LLC (NVO), 182 West Melrose Avenue, Suite 2, South Elgin, IL 60177, Officers: Marilou G. Pedres, Operation Manager (QI), Jroel G. Pedres, President, Application Type: New NVO License

Steam Logistics, LLC dba Steam Ocean dba Steam Air (NVO & OFF), 1110 Market Street, Suite 316A, Chattanooga, TN 37402, Officers: Bradley S. Kemp, Chief Operating

Officer (QI), Theodore W. Alling, Member, Application Type: New NVO & OFF License

Summit Freight International Inc. (NVO), 4885 Rockford Ridge Drive, Marietta, GA 30066, Officers: Benjamin Shi, CEO (QI), Gullian Cao, President, Application Type: QI Change

Tosie, LLC (NVO), 6411 Ashcroft Drive, Suite C, Houston, TX 7081, Officers: Pius S. Tomdio, President (QI), Joseph Siewe, Manager, Application Type: New NVO License

TradeLink Systems, Inc. (OFF), 999 Broadway, Suite 101, Saugus, MA 01906, Officer: Dana A. Goodwin, President (QI), Application Type: New OFF License

Uniway Logistics, Inc. (NVO), 516 Daroca Avenue, San Gabriel, CA 91775, Officer: Michelle E. Lee, President (QI), Application Type: New NVO License

Venezolana de Fletamentos Cavefle, LLC (NVO & OFF), 12190 NW 98th Avenue, Bay 7, Hialeah, FL 33018, Officers: Genesis Diaz, Manager (QI), Veronica Alcestte, Manager, Application Type: New NVO & OFF License

Worldcraft Logistics LLC (NVO & OFF), 1313 W. Holt Avenue, Pomona, CA 91768, Officer: Jimmy Dai N. Tran, Chief Executive Manager (QI), Application Type: New NVO & OFF License

WWI International Corp. (NVO & OFF), 2223 Clifton Place, Hoffman Estates, IL 60169, Officer: Syed O. Ahmed, President (QI), Application Type: Name Change to BMW Freight Solution Inc & Add NVO Service

By the Commission.

Dated: March 22, 2013.

Karen V. Gregory,

Secretary.

[FR Doc. 2013–07067 Filed 3–26–13; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

The Commission gives notice that the following Ocean Transportation Intermediary license has been reissued pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101).

License No.: 018789F.

Name: Cargo Agents, Inc.

Address: 143–30 38th Avenue, Suite 1H, Flushing, NY 11354.

Date Reissued: December 8, 2012.

Vern W. Hill,

Director, Bureau of Certification and Licensing.

[FR Doc. 2013–07065 Filed 3–26–13; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0174; Docket 2012–0076; Sequence 64]

Information Collection; Information Regarding Responsibility Matters

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an existing OMB information clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding Information Regarding Responsibility Matters.

DATES: Submit comments on or before May 28, 2013.

ADDRESSES: Submit comments identified by Information Collection 9000–0174, Information Regarding Responsibility Matters, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0174, Information Regarding Responsibility Matters''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0174, Information Regarding Responsibility Matters'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417. ATTN: Hada Flowers/IC 9000–0174, Information Regarding Responsibility Matters.

Instructions: Please submit comments only and cite Information Collection 9000–0174, Information Regarding Responsibility Matters, in all correspondence related to this collection. 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: Ms. Cecelia L. Davis, Procurement Analyst, Office of Governmentwide Acquisition Policy, at (202) 219–0202 or *Cecelia.davis@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

This information collection is necessary to: (a) Determine the responsibility of prospective contractors; and (b) ensure that contractors maintain for accuracy and completeness, their integrity and performance information upon which responsibility determinations rely.

Section 872 of the Duncan Hunter National Defense Authorization Act of 2009 (Public Law 110–417), enacted on October 14, 2008, required the development and maintenance of an information system that contains specific information on the integrity and performance of covered Federal agency contractors and grantees. The Federal Awardee Performance and Integrity Information System (FAPIIS) was developed to address these requirements. FAPIIS provides users access to integrity and performance information from the FAPIIS reporting module in the Contractor Performance Assessment Reporting System (CPARS), as well as proceedings information and suspension/disbarment information from the Central Contractor Registration (CCR) and the Excluded Parties List System (EPLS) functions in the System for Award Management (SAM).

The provision at FAR 52.209–7 requires that for each solicitation where the resultant contract value is expected to exceed $500,000, the offeror responds in paragraph (b) as to whether it has, or has not, active Federal contracts and grants that total greater than $10,000,000. Only if the offeror responds affirmatively is there any further FAPIIS-related information collection requirement.

Because the total dollar amount of its current Federal contracts and grants can be quickly retrieved by any firm, the estimated number of hours for response to the check block in paragraph (b) of the provision at 52.209–7 is 0.1 hours. According to the Federal Procurement Data System (FPDS), in Fiscal Year

2011, contracts with values over $500,000 were awarded to 25,065 unique vendors. We estimate an average of five responses annually (i.e., the number of proposals received per solicitation issued).

The clause at FAR 52.209–9 applies to solicitations where the resultant contract value is expected to exceed $500,000 and to contracts in which the offeror has indicated in paragraph (b) of the provision at 52.209–7 that it has current active Federal contracts and grants with total values greater than $10,000,000. Paragraph (a) of the clause at 52.209–9 requires the contractor to update responsibility information on a semiannual basis, throughout the life of the contract, by posting the information in the CCR.

It is estimated that 5,013 respondents (or 20 percent) of the 25,065 contract awardees will indicate an affirmative answer in paragraph (b) of the provision at 52.209–7 and, pursuant to FAR 52.209–9, those contractors will then have to enter FAPIIS-related data into the CCR function in the SAM. Two responses per respondent per year are calculated for those respondents with contracts and grants greater than $10 million, because of the requirement in FAR 52.209–9 for semi-annual updates. Because the FAPIIS information in CCR is maintained on individual vendors, contractors awarded more than one contract will still only have to update the data two times per year regardless of the number of contracts awarded them.

We have used an average burden estimate of 100 hours to enter the company's data into the Web site. This time estimate also includes the average annual recordkeeping time necessary per respondent to maintain the company's information internally. Most large businesses and some small businesses have established systems to track compliance. At this time, all or most Government contractors have entered relevant company data in the CCR in accordance with another information collection requirement.

Annual Reporting Burden

Initial response (52.209–7):
Respondents: 25,065.
Responses per respondent *x 5.*
Total annual responses *125,325.*
Hours per Response *0.1.*
Total response burden hours *12,533.*
Additional Response (52.209–9):
Respondents: *5,013.*
Responses per respondent *x 2.*
Total annual responses *10,026.*
Hours per Response *.5.*
Total response burden hours *5,013.*
Total response burden hours: *17,546.*

Annual Recordkeeping Burden

Respondents: *5,013.*
Responses per respondent *x 1.*
Total annual responses *5,013.*
Hours per Response 100.
Total Recordkeeping burden hours: *501,300.*

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 9000–0174, Information Regarding Responsibility Matters, in all correspondence.

Dated: March 21, 2013.

William Clark,

Acting Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2013–06917 Filed 3–26–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Delegation of Authorities

Notice is hereby given that I have delegated to the Administrator, Centers for Medicare & Medicaid Services (CMS), or his or her successor, the authorities vested in the Secretary for two provisions of the Affordable Care Act, and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) insofar as such provisions pertain to CMS' mission, as described in Section F.00 of CMS' Statement of Organization, Functions, and Delegations of Authority, last published at 55 FR 9363 (March 13, 1990).

Affordable Care Act

Title I—Quality, Affordable Health Care for All Americans

Subtitle B—Immediate Actions to Preserve and Expand Coverage

Section 1104(c)(1), (2), and (3)—The authorities pursuant to Section 1104(c)(1), (2), and (3) of the Affordable Care Act, as amended, to administer rules related to standards and associated operating rules, unique health plan identifiers, standards for electronic funds transfer, and a standard and a single set of associated operating rules for health claims attachments. These provisions relate to administrative simplification under Section 262 of HIPAA.

Title IX—Revenue Provisions

Subtitle A—Revenue Offset Provisions

Section 9008—The authorities pursuant to Section 9008 of the Affordable Care Act, as amended, related to the reporting requirements associated with the imposition of annual fee on branded prescription pharmaceutical manufacturers and importers.

Health Insurance Portability and Accountability Act of 1996

Section 203—The authorities pursuant to Section 203, as amended, pertaining to the Beneficiary Incentive Programs.

This delegation of authorities excludes the authority to issue regulations and to submit reports to Congress.

This delegation of authorities is effective immediately.

These authorities may be re-delegated.

These authorities shall be exercised under the Department's policy on regulations and the existing delegation of authority to approve and issue regulations.

I hereby affirm and ratify any actions taken by the Administrator, CMS, or his or her successor, which involved the exercise of the authorities for two provisions of the Affordable Care Act, and HIPAA delegated herein prior to the effective date of this delegation of authorities.

Authority: 44 U.S.C. 3101.

Dated: March 20, 2013.

Kathleen Sebelius,

Secretary.

[FR Doc. 2013–07139 Filed 3–26–13; 8:45 am]

BILLING CODE 4150–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Cancelation for Call of the President's Advisory Council on Faith-Based and Neighborhood Partnerships

Notice of Cancelation: This notice was published in the **Federal Register** on March 20th, 2013, Volume 78, Number 54, page 17210. The call previously scheduled to convene on April 2, 2013 has been cancelled.

Please contact Ben O'Dell for any additional information about the President's Advisory Council meeting at *partnerships@hhs.gov.*

Dated: March 21, 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. 2013–07142 Filed 3–26–13; 8:45 am]

BILLING CODE 4154–07–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-13–0745]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7570 or send an email to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Colorectal Cancer Screening Program (OMB No. 0920–0745, exp. 6/30/2013)—Extension—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Of cancers affecting both men and women, colorectal cancer (CRC) is the second leading cause of cancer-related deaths in the United States. Based on scientific evidence which indicates that regular screening is effective in reducing CRC incidence and mortality, regular CRC screening is now recommended for adults starting at age 50 and continuing until age 75 years.

In 2005, CDC established a three-year demonstration program, subsequently extended to four years, to screen low-income individuals 50 years of age and older who have no health insurance or inadequate health insurance for CRC. The five demonstration sites reported information to CDC including de-identified, patient-level demographic, screening, diagnostic, treatment, outcome and cost reimbursement data (OMB No. 0920–0745, exp. 7/31/2010). The information has been used to assess the feasibility and cost effectiveness of a publically funded screening program, describe key outcomes, and guide the expansion of the program. In 2009, with the conclusion of the demonstration program and increased Congressional funding to continue support of a colorectal cancer screening program, CDC established the Colorectal Cancer Control Program (CRCCP) to fund 26 sites for a five-year program period to increase population-based CRC screening and reduce health disparities in CRC screening, incidence and mortality. Funded sites implement evidence-based interventions to increase population-level screening rates. To address disparities in access to screening, funded sites screen low-income individuals 50 years of age and older who have no health insurance or inadequate health insurance for CRC. The funded sites report information to CDC including programmatic-level activity cost data, and de-identified patient-level demographic, screening, diagnostic, treatment and outcome data (OMB No. 0920–0745, exp. 6/30/2013).

CDC is requesting OMB approval to continue the information collection for an additional three years. CDC will collect de-identified Colorectal Clinical Data Elements (CCDE) on services provided to low-income individuals age 50 and older with inadequate or no health insurance. CDC will use the information to monitor and evaluate the program and funded sites; improve the quality of screening and diagnostic services for underserved individuals; develop outreach strategies to increase screening; and report program results to Congress and other legislative authorities. Each site will screen an estimated 375 individuals per year (186 semiannually).

The program will also collect program-level activity-based cost data utilizing a Cost Assessment Tool (CAT) previously used by other CDC-funded cancer programs. The information to be collected through the CAT will allow CDC to compare activity-based costs across multiple sites and programs, and will provide a more effective means of monitoring and improving the performance and cost-effectiveness of the CRC screening program.

Summary CCDE information will be transmitted to CDC electronically twice per year. Information collected through the Cost Assessment Tool will be transmitted electronically to CDC once per year. Participation is required for all sites funded through the CRC screening program. The number of funded sites will increase from 26 to 29 and this will result in an increase in the number of respondents and total burden. There are no changes to the content of the information collection or the estimated burden per response.

There are no costs to respondents other than their time. The total estimated annualized burden hours are 3,357.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hours)
Colorectal Cancer Screening Programs	Clinical Data Elements	29	375	15/60
	Cost Assessment Tool	29	1	22

Dated: March 21, 2013.

Ron A. Otten,

Director, Office of Scientific Integrity (OSI), Office of the Associate Director for Science (OADS), Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–07041 Filed 3–26–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-13–0639]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send comments to Ron Otten, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

EEOICPA Special Exposure Cohort Petitions (OMB No. 0920–0639 exp. 9/20/2013)—Extension—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

On October 30, 2000, the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), 42 U.S.C. §§ 7384–7385 [1994, supp. 2001] was enacted. The Act established a compensation program to provide a lump sum payment of $150,000 and medical benefits as compensation to covered employees suffering from designated illnesses incurred as a result of their exposure to radiation, beryllium, or silica while in the performance of duty for the Department of Energy and certain of its vendors, contractors and subcontractors. This legislation also provided for payment of compensation for certain survivors of these covered employees. This program has been mandated to be in effect until Congress ends the funding.

Among other duties, the Department of Health and Human Services (HHS) was directed to establish and implement procedures for considering petitions by classes of nuclear weapons workers to be added to the ''Special Exposure Cohort'' (the ''Cohort''). In brief, EEOICPA authorizes HHS to designate such classes of employees for addition to the Cohort when NIOSH lacks sufficient information to estimate with sufficient accuracy the radiation doses of the employees, and if HHS also finds that the health of members of the class may have been endangered by the radiation dose the class potentially incurred. HHS must also obtain the advice of the Advisory Board on Radiation and Worker Health (the ''Board'') in establishing such findings. On May 28, 2004, HHS issued a rule that established procedures for adding such classes to the Cohort (42 CFR Part 83). The rule was amended on July 10, 2007.

The HHS rule authorizes a variety of respondents to submit petitions. Petitioners are required to provide the information specified in the rule to qualify their petitions for a complete evaluation by HHS and the Board. HHS has developed two forms to assist the petitioners in providing this required information efficiently and completely. Form A is a one-page form to be used by EEOICPA claimants for whom NIOSH has attempted to conduct dose reconstructions and has determined that available information is not sufficient to complete the dose reconstruction. Form B, accompanied by separate instructions, is intended for all other petitioners. Forms A and B can be submitted electronically as well as in hard copy. Respondent/petitioners should be aware that HHS is not *requiring* respondents to use the forms. Respondents can choose to submit petitions as letters or in other formats, but petitions must meet the informational requirements stated in the rule. NIOSH expects, however, that all petitioners for whom Form A would be appropriate will actually use the form, since NIOSH will provide it to them upon determining that their dose reconstruction cannot be completed and encourage them to submit the petition. NIOSH expects the large majority of petitioners for whom Form B would be appropriate will also use the form, since it provides a simple, organized format for addressing the informational requirements of a petition.

NIOSH will use the information obtained through the petition for the following purposes: (a) Identify the petitioner(s), obtain their contact information, and establish that the petitioner(s) is qualified and intends to petition HHS; (b) establish an initial definition of the class of employees being proposed to be considered for addition to the Cohort; (c) determine whether there is justification to require HHS to evaluate whether or not to designate the proposed class as an addition to the Cohort (such an evaluation involves potentially extensive data collection, analysis, and related deliberations by NIOSH, the Board, and HHS); and, (d) target an evaluation by HHS to examine relevant potential limitations of radiation monitoring and/or dosimetry-relevant records and to examine the potential for related radiation exposures that might have endangered the health of members of the class.

Finally, under the rule, petitioners may contest the proposed decision of the Secretary to add or deny adding classes of employees to the cohort by submitting evidence that the proposed decision relies on a record of either factual or procedural errors in the implementation of these procedures. NIOSH estimates that the time to prepare and submit such a challenge is 45 minutes. Because of the uniqueness of this submission, NIOSH is not providing a form. The submission will typically be in the form of a letter to the Secretary.

There are no costs to respondents unless a respondent/petitioner chooses to purchase the services of a expert in dose reconstruction, an option provided for under the rule.

ESTIMATE OF ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. Burden per response (in hrs.)	Total burden (in hrs.)
Petitioners	Form A—42 CFR 83.9	5	1	3/60	1
	Form B—42 CFR 83.9	8	1	5	40
Petitioners using a submission format other than Form B (as permitted by rule).	42 CFR 83.9	1	1	6	6
Petitioners Appealing final HHS decision (no specific form is required).	42 CFR 83.18	4	1	45/60	3
Claimant authorizing a party to submit petition on his/her behalf.	Authorization Form—42 CFR 83.7	5	1	3/60	1
Total					51

Dated: March 21, 2013.

Ron A. Otten,

Director, Office of Scientific Integrity (OSI), Office of the Associate Director for Science (OADS), Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–07058 Filed 3–26–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–13–0106)

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send comments to Ron A. Otten, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Preventive Health and Health Services Block Grant (OMB No. 0920–0106, exp. 7/31/2013)—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Preventive Health and Health Services (PHHS) Block Grant program was established to provide awardees with a source of flexible funding for health promotion and disease prevention programs. Currently, 61 awardees (50 states, the District of Columbia, two American Indian Tribes, and eight U.S. territories) receive Block Grants to address locally-defined public health needs in innovative ways. Block Grants allow awardees to prioritize the use of funds and to fill funding gaps in programs that deal with the leading causes of death and disability. Block Grant funding also provides awardees with the ability to respond rapidly to emerging health issues, including outbreaks of diseases or pathogens. The PHHS Block Grant program is authorized by sections 1901–1907 of the Public Health Service Act.

CDC currently collects information from Block Grant awardees to monitor their objectives and activities (Preventive Health and Health Services Block Grant, OMB No. 0920–0106, exp. 7/31/2013). Each awardee is required to submit an annual application for funding (Work Plan) that describes its objectives and the populations to be addressed, and an Annual Report that describes activities, progress toward objectives, and Success Stories which highlight the improvements Block Grant programs have made and the value of program activities. Information is submitted electronically through the web-based Block Grant Information Management System (BGMIS).

The Work Plan and Annual Report are designed to help Block Grant awardees attain their goals and to meet reporting requirements specified in the program's authorizing legislation. Each Work Plan objective is defined in SMART format (Specific, Measurable, Achievable, Realistic and Time-based), and includes a specified start date and end date. Block Grant activities adhere to the Healthy People (HP) framework established by the Department of Health and Human Services (HHS). The current version of the BGMIS associates each awardee-defined activity with a specific HP National Objective, and identifies the location where funds are applied. In this Revision request, the CDC Block Grant program office has replaced the Healthy People 2010 objectives with Healthy People 2020 objectives and updated the BGMIS to enhance the number of objectives that grantees can use to describe their funded activities. At this time, the BGMIS does not collect data related to performance measures, but a future information collection request may outline additional reporting requirements related to performance measures.

CDC requests OMB approval to continue the Block Grant information collection for three years (through 8/31/2016). CDC will continue to use the BGMIS to monitor awardee progress, identify activities and personnel supported with Block Grant funding, conduct compliance reviews of Block Grant awardees, and promote the use of evidence-based guidelines and interventions. There are no changes to the number of respondents or the estimated annual burden per respondent. There are no changes to BGMIS data elements other than changes related to HP 2020 objectives and enhancements. The Work Plan and the Annual Report will be submitted

annually. The estimated burden per response for the Work Plan is 20 hours and the estimated burden per response for the Annual Report is 15 hours.

Participation in this information collection is required for Block Grant awardees. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Block Grant Awardees	Work Plan	61	1	20	1,220
	Annual Report	61	1	15	915
Total					2,135

Dated: March 21, 2013.

Ron A. Otten,

Director, Office of Scientific Integrity (OSI), Office of the Associate Director for Science (OADS), Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–07060 Filed 3–26–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-13–0849]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call (404) 639–7570 or send an email to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

School Dismissal Monitoring System (OMB Control No. 0920–0849 Expiration 5/31/2013)—Revision—National Center Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In the spring of 2009, the beginning of H1N1 influenza pandemic, illness among school-aged students (K–12) in many states and cities resulted in at least 1,351 school dismissals due to rapidly increasing absenteeism among students or staff. These dismissals impacted at least 824,966 students and 53,217 teachers. During that time, the U.S. Department of Education (ED) and the Centers for Disease Control and Prevention (CDC) received numerous daily requests about the overall number of school dismissals nationwide and the number of students and teachers impacted by the school dismissals. CDC and ED recognized the importance of having a mechanism in place to collect this information and gauge the impact of school dismissals during the pandemic. Although an informal process was put in place in conjunction with ED to track school closures, there was no formal monitoring system established. Consequently, CDC and ED launched the School Dismissal Monitoring System to track reports of school closures during public health emergencies and generate accurate, real-time, national summary data daily on the number of closed schools and the number of students and teachers impacted by the dismissals. The system, initially approved under OMB Control No. 0920–0008, Emergency Epidemic Investigations, facilitates CDC's and ED's efforts to track implementation of CDC pandemic guidance, characterize factors associated with differences in morbidity and mortality due to pandemic influenza in the schools and surrounding communities, and describe the characteristics of the schools experiencing outbreaks as well as control measures undertaken by those schools. In the fall of 2009, CDC's School Dismissal Monitoring System detected 1,947 school dismissals impacting approximately 623,616 students and 40,521 teachers nationwide. These data were used widely throughout the U.S. Government for situational awareness and specifically at CDC to assess the impact of CDC guidance and community mitigation efforts in response to the 2009 H1N1 influenza pandemic.

The purpose of this monitoring system is to continue to generate accurate, real-time, national summary data daily on the number of school dismissals and the number of students and teachers impacted by the dismissals due to public health emergencies. This collection request includes dismissals initiated for infectious disease outbreaks or weather related events when school dismissals are recommended by federal, state or local public health authorities. Respondents for this data collection are individuals representing schools, school districts, and public health agencies. CDC has determined that the information to be collected is necessary to study the impact of a public health emergency as it relates to community mitigation activities. The information has been used to help understand how CDC's guidance on school dismissals has been implemented at the state and local levels nationwide and to help determine how this guidance might be more helpful in the future.

Respondents are required to identify their respective institutions by providing non-sensitive information, to include the name and zip code of schools and school districts and their dates of closure, as well as reason for the dismissal (due to illness rates among students and staff or pre-emptive to slow the spread of infection). The respondents have the option of providing their position titles, phone number of the institution they represent, and email address. The estimates for burden hours are derived from the 627 total number of reported closures during the fall in 2009. We have multiplied that number by four as an estimate for a calendar year. Respondents are providing this information as public health and education officials and representatives of their agencies and organizations and not as private citizens. The data collection does not involve personally identifiable information and should have no impact on an individual's privacy. There is no cost to respondents other than their

time. The total estimated annualized burden is 208 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
School, school district, or health department.	School Dismissal Monitoring System Reporting Form.	2500	1	5/60

Dated: March 21, 2013.

Ron Otten,

Director, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–07040 Filed 3–26–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–13–0912]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send written comments to Ron Otten, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Frame development for the long-term care component of the National Health Care Surveys (OMB No. 0920–0912, expired 1/31/2013)—Reinstatement without change—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, ''shall collect statistics on health resources * * * [and] utilization of health care, including extended care facilities, and other institutions.''

NCHS seeks approval to collect data needed to develop up-to-date sampling frames of residential care facilities. The sampling frames will be used to draw nationally representative samples for two waves of the National Study of Long-Term Care Providers (NSLTCP). The frame-related data will be collected from representatives in state regulatory agencies in the 50 states and the District of Columbia primarily via telephone calls, emails, and in a few cases, via formal written requests. The frame information was first collected in 2012 (OMB No. 0920–0912, expired 1/31/2013). The data to be collected from these state officials include (1) confirming that we have identified the appropriate licensure categories of residential care facilities within each state that meet the NSLTCP definition and (2) for each relevant licensure category, requesting an electronic file of the licensed residential care facilities for which the agency is responsible if such files with the needed variables are not downloadable from the state's Web site.

The NSLTCP study definition of a residential care facility is one that is licensed, registered, listed, certified, or otherwise regulated by the state to provide room and board with at least two meals a day, provide around-the-clock on-site supervision, and help with activities of daily living (*e.g.,* bathing, eating, or dressing) or health related services, such as medication supervision; serves primarily an adult population; and has at least four licensed, certified, or regulated beds. Facilities licensed to serve the mentally ill or the intellectually disabled/developmentally disabled populations exclusively are excluded. Nursing homes and skilled nursing facilities are also excluded, unless they have a unit or wing meeting the above definition and residents can be separately enumerated.

The electronic files we seek to obtain from the states should include the name, address, phone number, and Web site (if available) of the residential care facility; name, phone number, and email address (if available) of facility director; licensure category; chain affiliation; ownership type; and bed size. Data on individual facilities are confidential and a public-use file will not be produced.

Expected users of the findings from the frame data include, but are not limited to CDC's NCHS and its contractors; other Department of Health and Human Services (DHHS) agencies, such as the Office of the Assistant Secretary for Planning and Evaluation and the Agency for Healthcare Research and Quality; associations, such as Leading Age (formerly the American Association of Homes and Services for the Aging), National Center for Assisted Living, American Seniors Housing Association, and Assisted Living Federation of America; universities; foundations; and other private sector organizations.

Burden is estimated at approximately 2.5 hours per state each time the frame will be developed, including time to verify contact information, to respond to a semi-structured telephone protocol, and to develop the facility listing in an electronic format. Three year clearance is requested to cover two collections of frame information. The burden for the two collections is shown in Table 1 below. There is no cost to respondents other than their time to participate.

TABLE 1—ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Form name	Number of respondents	Number of responses/ respondent	Average burden/ response (in hours)	Response burden (in hours)
State Government Representatives ..	Contact info verification	34	1	5/60	3
State Government Representatives ..	Telephone protocol	34	1	30/60	17
State Government Representatives ..	Electronic file development	34	1	2	68
Total	.....	.....	.....	.....	88

Dated: March 21, 2013.

Ron A. Otten,

Director, Office of Scientific Integrity (OSI), Office of the Associate Director for Science (OADS), Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–07054 Filed 3–26–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–13–0307]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send comments to Ron Otten, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

The Gonococcal Isolate Surveillance Project (GISP), OMB No. 0920–0307 exp. 12/31/2013—Revision—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The purpose of this request is to obtain Office of Budget and Management (OMB) approval to revise the data collection for the Gonococcal Isolate Surveillance Project (GISP) (OMB No. 0920–0307, expires 12/31/2013). CDC seeks a three-year approval to conduct the GISP project. Revisions to this ICR consist of removing 4 variables from the approved Form 1: Demographic and Clinical Data. The variables to be removed have not proven useful in the past and will not increase or decrease the burden. The objectives of GISP are: (1) To monitor trends in antimicrobial susceptibility of strains of *Neisseria gonorrhoeae* in the United States and (2) to characterize resistant isolates. Surveillance of *N. gonorrhoeae* antimicrobial resistance is important because: (1) Nearly all gonococcal infections are treated empirically and susceptibility testing data is not routinely available in clinical practice; (2) *N. gonorrhoeae* has consistently demonstrated the ability to develop resistance to the antimicrobials used for treatment; (3) effective treatment of gonorrhea is a critical component of gonorrhea control and prevention; and (4) untreated or inadequately treated gonorrhea can cause serious reproductive health complications. GISP is the only source in the United States of critical national, regional, and site-specific gonococcal antimicrobial resistance data. GISP provides information to support informed and scientifically-based treatment recommendations.

GISP was established in 1986 as a voluntary surveillance project and now involves 5 regional laboratories and 30 publicly funded sexually transmitted disease (STD) clinics around the country. The STD clinics submit up to 25 gonococcal specimens (or isolates) per month to the regional laboratories, which measure susceptibility of the isolates to multiple antibiotics. Limited demographic and clinical information corresponding to the isolates (and that do not allow identification of the patient) are submitted directly by the clinics to CDC.

During 1986–2012, GISP has demonstrated the ability to effectively achieve its objectives. The emergence of resistance in the United States to penicillin, tetracyclines, and fluoroquinolones among *N. gonorrhoeae* isolates was identified through GISP. Increased prevalence of fluoroquinolone-resistant *N. gonorrhoeae* (QRNG), as documented by GISP data, prompted CDC to update treatment recommendations for gonorrhea in CDC's Sexually Transmitted Diseases Treatment Guidelines, 2006 and to release an MMWR article stating that CDC no longer recommended fluoroquinolones for treatment of gonococcal infections. Recently, GISP isolates demonstrated increasing minimum inhibitory concentrations of cefixime, which can be an early warning of impending resistance. This worrisome trend prompted CDC to again update treatment recommendations and no longer recommend the use of cefixime as first-line treatment for gonococcal infections.

Under the GISP protocol, each of the 30 clinics submit an average of 20 isolates per clinic per month (i.e., 240 times per year) recorded on Form 1: Demographic/Clinical Data. The estimated time for clinical personnel to abstract data for Form 1: Demographic/Clinical Data is 11 minutes per response.

Each of the five Regional laboratories receives and processes approximately 20 isolates from each referring clinic per month (i.e., 121 isolates per regional laboratory per month [based on 2011 specimen volume]) using Form 2: Antimicrobial Susceptibility Testing.

For Form 2: Antimicrobial Susceptibility Testing, the annual frequency of responses per respondent is 1,452 (121 isolates × 12 months). Based on previous laboratory experience, the estimated burden of completing Form 2 for each participating laboratory is 1 hour per response, which includes the time required for laboratory processing of the patient's isolate, gathering and maintaining the data needed, and completing and reviewing the collection of information. For Form 3: Control Strain Susceptibility Testing, a ''response'' is defined as the processing and recording of Regional laboratory data for a set of seven control strains. It takes approximately 12 minutes to process and record the Regional laboratory data on Form 3 for one set of seven control strains, of which there are 4 sets. The number of responses per respondent is 48 (4 sets × 12 months). There are no additional costs to respondents.

ESTIMATE OF ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hours)	Total annual burden (in hours)
Clinic	Demographic Clinical Data Form 1	30	240	11/60	1,320
Laboratory	Antimicrobial Susceptibility Testing Form 2	5	1,452	1	7,260
	Control Strain Susceptibility Testing Form 3	5	48	12/60	48
Total		40			8,628

Dated: March 21, 2013.

Ron A. Otten,

Director, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–07059 Filed 3–26–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Breast Cancer in Young Women (ACBCYW)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

Time and Date: 9:00 a.m.–11:00 a.m. EDT, April 16, 2013.

Place: The meeting will be held via teleconference.

Teleconference login information is as follows: For Public:

TOLL–FREE PHONE #: 800–857–4875

Participant passcode: 9377

Net Conference URL: https://www.mymeetings.com/nc/join/

Conference number: PW8921926

Audience passcode: 9377 or *Public can join the event directly: https://www.mymeetings.com/nc/join.php?i=PW8921926&p=9377&t=c*

There is also a toll number for anyone outside of the USA:

TOLL #: 1–212–287–1661

Participant passcode: 9377

Please go to the ACBCYW meeting Web page to register for this meeting: *http://www.cdc.gov/cancer/breast/what_cdc_is_doing/conference.htm.*

Status: Open to the public, limited only by the number of phone lines available.

Purpose: The committee provides advice and guidance to the Secretary, HHS; the Assistant Secretary for Health; and the Director, CDC, regarding the formative research, development, implementation and evaluation of evidence-based activities designed to prevent breast cancer (particularly among those at heightened risk) and promote the early detection and support of young women who develop the disease. The advice provided by the Committee will assist in ensuring scientific quality, timeliness, utility, and dissemination of credible appropriate messages and resource materials.

Matters To Be Discussed: The agenda will include discussions on approaches to increase awareness of clinicians/practitioners regarding topics such as breast health, symptoms, diagnosis, and treatment of breast cancer in young women; and information needs and delivery mechanisms for women at higher risks for developing breast cancer. These discussions will be directed toward the final review and approval of formal recommendations on these topics.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Temeika L. Fairley, Ph.D., Designated Federal Officer, National Center for Chronic Disease Prevention and Health Promotion, CDC, 4770 Buford Highway NE., Mailstop K52, Atlanta, Georgia, 30341, Telephone (770) 488–4518, Fax (770) 488–4760, Email: *acbcyw@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention, and Agency for Toxic Substances and Disease Registry.

Dana Redford,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–06946 Filed 3–26–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Respirator Certification Fees; Public Meeting

AGENCY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of public meeting.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces a public meeting. The purpose of this meeting is to allow stakeholders to present information the impact of an increase on respirator fees on individual respirator manufacturers, the respirator market, or on those industries that rely on NIOSH approved respiratory equipment.

DATES: April 30, 2013, 10 a.m. to 4 p.m. EDT, or after the last public commenter has spoken, whichever occurs first.

ADDRESSES: U.S. Office of Surface Mining, Three Parkway Center

(Greentree), Pittsburgh, PA 15220. This meeting will also be available by remote access. Registration information is available on the NIOSH Web site at *http://www.cdc.gov/niosh.*

FOR FURTHER INFORMATION CONTACT: David Book, NIOSH National Personal Protective Technology Laboratory (NPPTL), 626 Cochrans Mill Road, Pittsburgh, PA 15236 (412) 386–6691 or (412) 386–5200 (these are not toll free numbers).

SUPPLEMENTARY INFORMATION:

Public Meeting

NIOSH will hold a public meeting to allow commenters to present information on an increase in respirator certification and approval fees on individual respirator manufacturers, the respirator market, or on those industries that rely on NIOSH approved respiratory equipment.

Requests to make presentations at the public meeting should be mailed to the NIOSH Docket Office, Robert A. Taft Laboratories, MS–C34, 4676 Columbia Parkway, Cincinnati, OH 45226. Requests may also be submitted by telephone (513) 533–8611, facsimile (513) 533–8285, or emailed to *nioshdocket@cdc.gov* with the words ''respirator fees presentation'' in the subject line. All requests to present should contain the name, address, telephone number and relevant business affiliations of the presenter, and the approximate time requested for the presentation. Oral presentations will be limited to 15 minutes. After reviewing the requests for presentations, NIOSH will notify the presenter that his/her presentation is scheduled. If a participant is not in attendance when his/her presentation is scheduled to begin, the remaining participants will be heard in order. After the last scheduled speaker is heard, participants who missed their assigned times may be allowed to speak, limited by time available.

Attendees who wish to speak but did not submit a request for the opportunity to make a presentation may be given this opportunity after the scheduled speakers are heard, at the discretion of the presiding officer and limited by time available. This meeting will also be using audio/LiveMeeting Conferencing, remote access capabilities where interested parties may listen in and view the presentations over the Internet simultaneously. Parties remotely accessing the meeting will have the opportunity to comment during the open comment period.

Registration is required for both in-person and LiveMeeting participation. Because this meeting is being held at a Federal site, pre-registration is required on or before April 26, 2013 and a government-issued photo ID (driver's license or passport) will be required to obtain entrance to the facility. Non-US citizens need to register by March 29, to allow sufficient time for mandatory facility security clearance procedures to be completed.

An email confirming registration will be sent from NIOSH for both in-person participation and audio conferencing participation. Details required to participate via the conferencing will be provided by NIOSH in a separate email. This option will be available to participants on a first come, first served basis and is limited to the first 100 participants.

Registration information is available on the NIOSH Web site at *http://www.cdc.gov/niosh.*

Dated: March 20, 2013.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2013–06850 Filed 3–26–13; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee to the Director (ACD), Centers for Disease Control and Prevention (CDC)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting of the aforementioned committee.

Time and Date: 8:30 a.m.–3:00 p.m. (EDT), April 25, 2013.

Place: CDC, Building 21, Rooms 1204 A/B, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people. The public is welcome to participate during the public comment period, which is tentatively scheduled from 2:45 p.m. to 2:50 p.m. This meeting is also available by teleconference. Please dial (877) 930–8819 and enter code 1579739.

Purpose: The committee will provide advice to the CDC Director on strategic and other broad issues facing CDC.

Matters To Be Discussed: The Advisory Committee to the Director will receive updates from the Global Workgroup; State, Tribal, Local and Territorial Workgroup; the Communications Workgroup; the Ethics Subcommittee, and the Health Disparities Subcommittee, as well as an update from the CDC Director.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Carmen Villar, M.S.W., Designated Federal Officer, Advisory Committee to the Director, CDC, 1600 Clifton Road NE., M/S D–14, Atlanta, Georgia 30333. Telephone 404/639–7000, Email: *GHickman@cdc.gov*. The deadline for notification of attendance is April 22, 2013. To register for this meeting, please send an email to *ACDirector@cdc.gov*.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dana Redford,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 2013–06947 Filed 3–26–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number: 93.676]

Announcement of the Award of Fifteen Single-Source Program Expansion Supplement Grants to Unaccompanied Alien Children's Shelter Care Grantees

AGENCY: Office of Refugee Resettlement, Administration for Children and Families, Department of Health and Human Services.

ACTION: Announcement of the award of fifteen single-source program expansion grants to ten current grantees to expand bed capacity and supportive services to the increasing number of unaccompanied alien children.

SUMMARY: The Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR) announces the award of fifteen single-source program expansion supplement grants to the following ten current grantees, for a total of $47,168,490.

Organization	Location	Amount
BCFS Health and Human Services	San Antonio, TX	$3,039,665
Heartland Human Care Services, Inc.	Chicago, IL	1,659,393
Southwest Key, Inc.	Austin, TX	13,431,660
Children's Village	Dobbs Ferry, NY	4,208,741
United States Conference of Catholic Bishops	Washington, DC	209,576
Lutheran Immigration Refugee Services	Baltimore, MD	281,452
US Committee for Refugees and Immigrants	Washington, DC	602,690
International Education Services	Los Fresnos, TX	16,314,360
Lincoln Hall	Lincolndale, NY	7,024,414
David and Margaret Youth & Family Services	LaVerne, CA	396,539

These supplement grants will support the expansion of bed capacity and supportive services to meet the number of unaccompanied alien children referrals from the Department of Homeland Security (DHS). The funding program is mandated by section 462 of the Homeland Security Act to ensure appropriate placement of all referrals from the DHS. The program is tied to DHS apprehension strategies and sporadic number of border crossers. Award funds will support services to unaccompanied alien children through September 30, 2013.

DATES: The period of support under these supplements is October 1, 2012 through September 30, 2013.

FOR FURTHER INFORMATION CONTACT: Jallyn Sualog, Acting Director, Division of Children's Services, Office of Refugee Resettlement, 901 D Street SW., Washington, DC 20447, Telephone (202) 401–4997. Email: *jallyn.sualog@acf.hhs.gov*

SUPPLEMENTARY INFORMATION: Since the beginning of FY 13, the Unaccompanied Alien Children (UAC) program has seen a dramatic increase in the number of DHS referrals. The influx of border crossers referred by DHS has grown beyond anticipated rates and has resulted in the program needing a significant increase in the number of shelter beds and supportive services.

The UAC program has specific requirements for the provision of services to unaccompanied alien children. These grantee organizations are the only entities with the infrastructure, licensing, experience, and appropriate level of trained staff to meet the required service requirements and the urgent need for the expansion of services required to respond to unexpected arrivals of unaccompanied children. The program expansion supplement will support such services and alleviate the buildup of children waiting in border patrol stations for placement in shelter care.

Statutory Authority: Section 462 of the Homeland Security Act, (6 U.S.C. 279) and sections 235(c) and 235(d) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, (8 U.S.C. 1232(c) and 1232(d)).

Eskinder Negash,

Director, Office of Refugee Resettlement.

[FR Doc. 2013–07061 Filed 3–26–13; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0065]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Registration of Food Facilities Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by April 26, 2013.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov*. All comments should be identified with the OMB control number 0910–0502. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400T, Rockville, MD 20850, 301–796–5733, *domini.bean@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Registration of Food Facilities Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002—21 CFR 1.230–1.235 (OMB Control Number 0910–0502)—Extension

The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Bioterrorism Act) (Pub. L. 107–188) added section 415 to the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 350d), which requires domestic and foreign facilities that manufacture, process, pack, or hold food for human or animal consumption in the United States to register with the Food and Drug Administration (FDA). Sections 1.230 through 1.235 of FDA's regulations (21 CFR 1.230–1.235) set forth the procedures for registration of food facilities. Information provided to FDA under these regulations helps the Agency to notify quickly the facilities that might be affected by a deliberate or accidental contamination of the food supply. In addition, data collected through registration is used to support FDA enforcement activities and to screen imported food shipments. Advance notice of imported food allows FDA, with the support of the Bureau of Customs and Border Protection, to target import inspections more effectively and help protect the nation's food supply against terrorist acts and other public health emergencies. If a facility is not registered or the registration for a facility is not updated when necessary, FDA may not be able to contact the facility and may not be able to target import inspections effectively in case of a known or potential threat to the food supply or other food-related emergency, putting consumers at risk of consuming hazardous food products that could

cause serious adverse health consequences or death.

FDA's regulations require that each facility that manufactures, processes, packs, or holds food for human or animal consumption in the United States register with FDA using Form FDA 3537 (§ 1.231). The term ''Form FDA 3537'' refers to both the paper version of the form and the electronic system known as the Food Facility Registration Module, which is available at *http://www.access.fda.gov*. Domestic facilities are required to register whether or not food from the facility enters interstate commerce. Foreign facilities that manufacture/process, pack, or hold food also are required to register unless food from that facility undergoes further processing (including packaging) by another foreign facility before the food is exported to the United States. However, if the subsequent foreign facility performs only a minimal activity, such as putting on a label, both facilities are required to register.

Information FDA requires on the registration form includes the name and full address of the facility; emergency contact information; all trade names the facility uses; applicable food product categories; and a certification statement that includes the name of the individual authorized to submit the registration form. Additionally, facilities are encouraged to submit their preferred mailing address; type of activity conducted at the facility; type of storage, if the facility is primarily a holding facility; and approximate dates of operation if the facility's business is seasonal.

In addition to registering, a facility is required to submit timely updates within 60 days of a change to any required information on its registration form, using Form FDA 3537 (§ 1.234), and to cancel its registration when the facility ceases to operate or is sold to new owners or ceases to manufacture/process, pack, or hold food for consumption in the United States, using Form FDA 3537a (§ 1.235).

The FDA Food Safety Modernization Act (FSMA) (Pub. L. 111–353), enacted on January 4, 2011, amended section 415 of the FD&C Act in relevant part to require registrants for food facilities to submit additional registration information to FDA, and to require facilities required to register with FDA to renew such registrations biennially. Section 415(a)(2) of the FD&C Act, as amended by FSMA, also provides that, when determined necessary by FDA ''through guidance,'' a food facility is required to submit to FDA information about the general food category of a food manufactured, processed, packed or held at such facility, as determined appropriate by FDA, including by guidance. These amendments took effect October 1, 2012. To comply with this statutory deadline, FDA initially obtained OMB approval of the following additional collection of information requirements under the emergency processing provisions of the PRA:

- Modification of food facility registration forms to include the following mandatory fields: The email address for the contact person of a domestic facility and the email address of the United States agent for a foreign facility, an assurance that FDA will be permitted to inspect the facility, and specific food categories as identified in the guidance document entitled, ''Guidance for Industry: Necessity of the Use of Food Product Categories in Food Facility Registrations and Updates to Food Product Categories'' (section 415(a)(2) of the FD&C Act 21 U.S.C. 350d(a)(2)); and
- The requirement that registered facilities submit registration renewals to FDA biennially (section 415(a)(3) of the FD&C Act (21 U.S.C. 350d(a)(3)).

Food Facility Registration, in conjunction with advance notice of imported food, helps FDA act quickly in responding to a threatened or actual bioterrorist attack on the U.S. food supply or to other food-related emergencies. Food Facility Registration provides FDA with information about facilities that manufacture/process, pack, or hold food for consumption in the United States. In the event of an outbreak of foodborne illness, such information helps FDA and other authorities determine the source and cause of the event. In addition, the registration information enables FDA to notify more quickly the facilities that might be affected by the outbreak. See Interim Final Rule entitled, ''Registration of Food Facilities Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002'' (68 FR 58894 at 58895; October 10, 2003).

Implementation of the new FSMA requirements described previously helps enable FDA to quickly identify and remove from commerce an article of food for which there is a reasonable probability that the use of, or exposure to, such article of food will cause serious adverse health consequences or death to humans or animals. FDA uses the information collected under these provisions to help ensure that such food products are quickly and efficiently removed from the market.

Description of Respondents: Respondents to this collection of information are owners, operators, or agents in charge of domestic or foreign facilities that manufacture, process, pack, or hold food for human or animal consumption in the United States.

In the **Federal Register** of January 22, 2013 (78 FR 4414), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received no comments in response to the notice.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section and/or section of FD&C act	FDA form No.	No. of respondents	No. of responses per respondent	Total annual responses	Average burden per response	Total hours
New Facilities						
Domestic						
§§ 1.230–1.233 and section 415 of the FD&C Act.	FDA 3537 [2]	11,080	1	11,080	2.7	29,916
Foreign						
§§ 1.230–1.233 and section 415 of the FD&C Act.	FDA 3537	19,900	1	19,900	8.9	177,110

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

21 CFR Section and/or section of FD&C act	FDA form No.	No. of respondents	No. of responses per respondent	Total annual responses	Average burden per response	Total hours
New Facility Registration Subtotal						207,026
Previously Registered Facilities						
Updates under § 1.234 and section 415 of the FD&C Act.	FDA 3537	118,530	1	118,530	1.2	142,236
Cancellations under § 1.235	FDA 3537a	6,390	1	6,390	1	6,390
Biennial renewal of registration required by section 415 of the FD&C Act.	FDA 3537	224,930	1	224,930	0.5 (30 minutes)	112,465
Updates, Cancellations or Biennial Renewals Subtotal.						261,091
Total Hours Annually						468,117

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] The term "Form FDA 3537" refers to both the paper version of the form and the electronic system known as the Food Facility Registration Module, which is available at *http://www.access.fda.gov.*

This estimate is based on FDA's experience and the average number of new facility registrations, updates and cancellations received in the past 3 years. FDA received 12,011 new domestic facility registrations during 2010; 10,646 during 2011; and 10,584 during 2012. Based on this experience, FDA estimates the annual number of new domestic facility registrations will be 11,080. FDA estimates that listing the information required by the Bioterrorism Act and presenting it in a format that will meet the Agency's registration regulations will require a burden of approximately 2.5 hours per average domestic facility registration. We estimate that the FSMA-required additional information for new facility registrations will require an additional 12 minutes (0.2 hour) per response for domestic facilities. The average domestic facility burden hour estimate of 2.7 hours takes into account that some respondents completing the registration may not have readily available Internet access. Thus, the total annual burden for new domestic facility registrations is estimated to be 29,916 hours (11,080 x 2.7 hours).

FDA received 20,598 new foreign facility registrations during 2010; 20,009 during 2011; and 19,092 during 2012. Based on this experience, FDA estimates the annual number of new foreign facility registrations will be 19,900. FDA estimates that listing the information required by the Bioterrorism Act and presenting it in a format that will meet the Agency's registration regulations will require a burden of approximately 8.5 hours per average foreign facility registration. We estimate that the FSMA-required additional information for new facility registrations will require an additional 24 minutes (0.4 hour) per response for foreign facilities. The average foreign facility burden hour estimate of 8.9 hours includes an estimate of the additional burden on a foreign facility to obtain a U.S. agent, and takes into account that for some foreign facilities the respondent completing the registration may not be fluent in English and/or not have readily available Internet access. Thus, the total annual burden for new foreign facility registrations is estimated to be 177,110 hours (19,900 × 8.9 hours).

Based on its experience, FDA estimates that the average annual number of updates to facility registrations will remain unchanged at 118,530 updates annually over the next 3 years. FDA also estimates that updating a registration will, on average, require a burden of approximately 1 hour, taking into account fluency in English and Internet access. We estimate that the FSMA-required additional information for updates will require an additional 12 minutes (0.2 hour) per response. Thus, the total annual burden of submitting updates to facility registrations is estimated to be 142,236 hours (118,530 x 1.2 hours).

Based on its experience, FDA estimates that the average annual number of cancellations of facility registrations will remain unchanged at 6,390 cancellations annually over the next 3 years. FDA also estimates that cancelling a registration will, on average, require a burden of approximately 1 hour, taking into account fluency in English and Internet access. FSMA did not change the required information for cancellations. Thus, the total annual burden for cancelling registrations is estimated to be 6,390 hours.

We estimate that the new biennial registration required by FSMA, which will require the submission of certain new data elements and the verification and possible updating of other information rather than re-entering all information, will require 30 minutes (0.5 hour) per response, including time for the new FSMA-required information. FDA estimates that, on an annualized basis, the number of biennial registrations submitted over the next 3 years will be 224,930. This estimate is based on the number of currently registered firms (449,860) divided by 2. Thus, the total annual burden for biennial registration is estimated to be 112,465 hours (224,930 × 0.5 hours).

Dated: March 22, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–07029 Filed 3–26–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0297]

Agency Information Collection Activities; Proposed Collection; Comment Request; Prevention of Salmonella Enteritidis in Shell Eggs During Production—Recordkeeping and Registration Provisions

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing an opportunity for public comment on our proposed collection of certain information. 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 provisions of FDA's recordkeeping and registration requirements for shell egg producers.

DATES: Submit either electronic or written comments on the collection of information by May 28, 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: Domini Bean, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–5733, *domini.bean@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, we are publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, we invite 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.

Prevention of *Salmonella* Enteritidis in Shell Eggs During Production—Recordkeeping and Registration Provisions—21 CFR 118.10 and 118.11 (OMB Control Number 0910–0660)—Extension

Shell eggs contaminated with *Salmonella* Enteritidis (SE) are responsible for more than 140,000 illnesses per year. The Public Health Service Act (PHS Act) authorizes the Secretary of Health and Human Services to make and enforce such regulations as ''are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States * * * or from one State * * * into any other State'' (section 361(a) of the PHS Act). This authority has been delegated to the Commissioner of Food and Drugs. Under section 402(a)(4) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 342(a)(4)), a food is adulterated if it is prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth or rendered injurious to health. Under section 701(a) of the FD&C Act (21 U.S.C. 371(a)), FDA is authorized to issue regulations for the efficient enforcement of the FD&C Act.

On July 9, 2009, FDA published in the **Federal Register** a final rule that established a regulation at part 118 (21 CFR part 118) entitled ''Prevention of *Salmonella* Enteritidis in Shell Eggs During Production, Storage, and Transportation'' (74 FR 33030) (the Shell Eggs final rule). Part 118 requires shell egg producers to implement measures to prevent SE from contaminating eggs on the farm and from further growth during storage and transportation, and requires these producers to maintain records concerning their compliance with the rule and to register with FDA. As described in more detail with regard to each information collection provision of part 118, each farm site with 3,000 or more egg-laying hens that sells raw shell eggs to the table egg market, other than directly to the consumer, must refrigerate, register, and keep certain records. Farms that do not send all of their eggs to treatment are also required to have an SE prevention plan and to test for SE.

Section 118.10 of FDA's regulations requires recordkeeping for all measures the farm takes to prevent SE in its flocks. Since many existing farms participate in voluntary egg quality assurance programs, those respondents may not have to collect any additional information. Records are maintained on file at each farm site and examined there periodically by FDA inspectors.

Section 118.10 also requires each farm site with 3,000 or more egg-laying hens that sells raw shell eggs to the table egg market, other than directly to the consumer, and does not have all of the shell eggs treated, to design and implement an SE prevention plan. Section 118.10 requires recordkeeping for each of the provisions included in the plan and for plan review and modifications if corrective actions are taken.

Finally, § 118.11 of FDA's regulations requires that each farm covered by § 118.1(a) register with FDA using Form FDA 3733. The term ''Form FDA 3733'' refers to both the paper version of the form and the electronic system known as the Shell Egg Producer Registration Module, which is available at *http://www.access.fda.gov.* The Agency strongly encourages electronic registration because it is faster and more convenient. The system the Agency has developed can accept electronic registrations 24 hours a day, 7 days a week. A registering shell egg producer will receive confirmation of electronic registration instantaneously once all the required fields on the registration screen are completed. However, paper registrations will also be accepted. Form FDA 3733 is available for download for registration for submission by mail or CD–ROM (see *http://www.fda.gov/Food/GuidanceRegulation/FoodFacilityRegistration/ShellEggProducerRegistration/ucm217952.htm#cdrom*).

Recordkeeping and registration are necessary for the success of the SE prevention measures. Written SE prevention plans and records of actions taken due to each provision are essential for farms to implement SE prevention plans effectively. Further, they are essential for us to be able to determine compliance. Information provided under these regulations helps us to notify quickly the facilities that might be affected by a deliberate or accidental contamination of the food supply. In addition, data collected through registration is used to support our enforcement activities.

Description of Respondents: Respondents to this information collection include farm sites with 3,000 or more egg-laying hens that sell raw

eggs to the table egg market, other than directly to the consumer.

We estimate the burden of this collection of information as follows:

Recordkeeping Burden

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Description and 21 CFR section	No. of record-keepers [2]	No. of records per record-keeper	Total annual records	Average burden per recordkeeping	Total hours
Refrigeration Records, § 118.10(a)(3)(iv)	2,600	52	135,200	0.5	67,600
Testing, Diversion, and Treatment Records, § 118.10(a)(3)(v) to (a)(3)(viii) (positive) [3]	343	52	17,836	0.5	8,918
Egg Testing, § 118.10(a)(3)(vii)	331	7	2,317	8.3	19,231
Environmental Testing, § 118.10(a)(3)(v) [3]	6,308	23	145,084	0.25	36,271
Testing, Diversion, and Treatment Records, § 118.10(a)(3)(v) to (a)(3)(viii) (negative) [3]	5,965	1	5,965	0.5	2,983
Prevention Plan Review and Modifications, § 118.10(a)(4)	331	1	331	10	3,310
Chick and Pullet Procurement Records, § 118.10(a)(2)	4,731	1	4,731	0.5	2,366
Rodent and Other Pest Control, § 118.10(a)(3)(ii), and Biosecurity Records, § 118.10(a)(3)(i)	9,462	52	492,024	0.5	246,012
Prevention Plan Design, § 118.10(a)(1)	150	1	150	20	3,000
Cleaning and Disinfection Records, § 118.10(a)(3)(iii)	331	1	331	0.5	166
Total hours					389,857

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Some records are kept on a by-farm basis and others are kept on a by-house basis.
[3] Calculations include requirements for pullet and layer houses.

FDA is retaining most of the estimates published in the Shell Eggs final rule with regard to the estimated number of respondents and the average burden per recordkeeping (74 FR 33030 at 33089 to 33091). FDA bases the remaining recordkeeping burden estimates and the reporting burden estimates on its experience implementing the final rule and the number of registrations and cancellations received in the past 3 years.

The number of recordkeepers estimated in column 2 of table 1 and all other estimates discussed in this section are drawn from estimates of the total number of layer and pullet houses affected by the Shell Eggs final rule (74 FR 33030 at 33078 to 33080). In the final rule, we assumed that those farms that were operating according to recognized industry or State quality assurance plans were already largely in compliance with the plan design and recordkeeping provisions discussed in this section, and therefore would not experience additional costs to comply with recordkeeping provisions. We found that 59 percent of farms with more than 50,000 layers were members of State or industry quality assurance plans. Fewer than 8 percent of farms with fewer than 50,000 layers were members of quality assurance plans. Thus, we estimated the number of layer farms incurring a new recordkeeping burden because of the Shell Eggs final rule to be 2,600, and the number of houses affected to be 4,731. A detailed breakdown of this estimation is shown in table 29 of the Shell Eggs final rule (74 FR 33030 at 33078).

Prevention plan design (§ 118.10(a)(1)) records will be kept on a per farm basis but because the Shell Eggs final rule has been fully implemented, FDA assumes that new prevention plan design will only be undertaken by new entrants to the industry. Refrigeration records (§ 118.10(a)(3)(iv)) will also be kept on a per farm basis so the estimated number of recordkeepers for this provision is 2,600.

Records of chick and pullet procurement (§ 118.10(a)(2)), rodent and other pest control (§ 118.10(a)(3)(ii)), and biosecurity (§ 118.10(a)(3)(i)) will be kept on a per house basis, so the estimated number of recordkeepers for these provisions is 4,731.

Records of cleaning and disinfection (§ 118.10(a)(3)(iii)) will also be kept on a per house basis, but will only need to be kept in the event that a layer house tests environmentally positive for SE. Prevention plan review and modifications (§ 118.10(a)(4)) will also need to be performed every time a house tests positive. As discussed in section V.F of the Shell Eggs final rule (74 FR 33030 at 33078 to 33080), FDA estimated that 7.0 percent will test positive after the provisions of the rule took effect. Therefore, the number of recordkeepers for these provisions is estimated to be 331 (4,731 houses × 0.070) annually.

Records of testing, diversion, and treatment (118.10(a)(3)(v) to (a)(3)(viii)) will be kept on a per house basis and will include records on flocks from pullet houses. In the Shell Eggs final rule, FDA estimated that there are one third as many pullet houses as there are layer houses. Therefore the total number of recordkeepers for these provisions is 6,308 (4,731 + (4,731/3)). The number of annual records kept depends on whether or not houses test positive for SE. Annually, 343 layer and pullet houses ((4,731 layer houses × 0.070) + ((4731/3 pullet houses) × 0.0075)) are expected to test positive and 5,965 are expected to test negative ((4,731 layer houses × 0.930) + ((4731/3 pullet houses) × 0.9925)).

We assume that refrigeration records will be kept on a weekly basis on a per farm basis under § 118.10(a)(3)(iv)). We estimate that 2,600 recordkeepers will maintain 52 records each for a total of 135,200 records and that it will take approximately 0.5 hour per recordkeeping. Thus, the total annual burden for refrigeration records is estimated to be 67,600 hours (135,200 × 0.5 hour).

We assume that records of testing, diversion, and treatment under § 118.10(a)(3)(v) to (a)(3)(viii)) will be kept weekly in the event a layer house tests environmentally positive for SE. We estimate that 343 layer and pullet houses will test positive and thus 343 recordkeepers will maintain 52 records each for a total of 17,836 records and that it will take approximately 0.5 hour per recordkeeping. Thus, the total annual burden for testing, diversion, and treatment records in the event of a positive test result is estimated to be 8,918 hours (17,836 × 0.5 hour).

Given a positive environmental test for SE., we estimate the weighted average number of egg tests per house

under § 118.10(a)(3)(vii)) to be 7. We estimate that 331 recordkeepers will maintain 7 records each for a total of 2,317 records and that it will take approximately 8.3 hours per recordkeeping. Thus, the total annual burden for egg testing is estimated to be 19,231 hours (2,317 × 8.3 hours).

FDA estimates that all 1,577 pullet and 4,731 layer houses not currently testing (6,308 recordkeepers) will incur the burden of a single environmental test annually under § 118.10(a)(3)(v)). The number of samples taken during the test depends on whether a farm employs the row based method (an average of 12 samples per house) or the random sampling method (32 samples per house). For the purposes of this analysis we estimate that roughly 50 percent of the houses affected will employ a row based method and 50 percent will employ a random sampling method, implying an average of 23 samples per house. Thus, we estimate that 6,308 recordkeepers will take 23 samples each for a total of 145,084 samples. The time burden of sampling is estimated on a per swab sample basis. We estimate that it will take approximately 15 minutes to collect and pack each sample. Thus, the total annual burden for environmental testing is estimated to be 36,271hours (145,084 × 0.25 hour).

We estimate that records of testing, diversion, and treatment under § 118.10(a)(3)(v) to (a)(3)(viii) will be kept annually in the event a layer house tests environmentally negative for SE. We estimate that 5,965 layer and pullet houses will test negative and thus 5,965 recordkeepers will maintain one record of that testing that will take approximately 0.5 hour per record. Thus, the total annual burden for testing, diversion, and treatment records in the event of a negative test result is estimated to be 2,983 hours (5,965 × 0.5 hour).

Prevention plan review and modifications under § 118.10(a)(4) will need to be performed every time a house tests positive. As discussed, we estimate that 331 layer houses will test positive requiring plan review and modifications and that it will take 10 hours to complete this work. Thus, the total annual burden for prevention plan review and modifications in the event of a positive test result is estimated to be 3,310 hours (331 × 10 hours).

We estimate that chick and pullet procurement records under § 118.10(a)(2) will be kept roughly once annually per layer house basis. We estimate that 4,731 layer houses will maintain 1 record each and that it will take approximately 0.5 hour per recordkeeping. Thus, the total annual burden for chick and pullet procurement recordkeeping is estimated to be 2,366 hours (4,731 × 0.5 hour).

We estimate that rodent and other pest control records under § 118.10(a)(3)(ii)) and biosecurity records under § 118.10(a)(3)(i) will be kept weekly on a per layer house basis. We assume that 4,731 layer houses will maintain a weekly record under each provision. Thus, we estimate 9,462 recordkeepers will maintain 52 records each for a total of 492,024 records. We estimate a recordkeeping burden of 0.5 hours per record for a total of 246,012 burden hours (492,024 × 0.5 hour).

New prevention plan design required by § 118.10(a)(1) will only be undertaken by new farms and records will be kept on a per farm basis. We estimate that there are 150 new farm registrations annually and we assume that this reflects 150 new farms requiring prevention plan design. We estimate that it will take 20 hours to complete this work. Thus, the total annual burden for prevention plan design is estimated to be 3,000 hours (150 × 20 hours).

Cleaning and disinfection recordkeeping under § 118.10(a)(3)(iii) will need to be performed every time a house tests positive. As discussed, we estimate that 331 layer houses will test positive requiring 1 record each and that it will take approximately 0.5 hour per recordkeeping. Thus, the total annual burden for cleaning and disinfection recordkeeping in the event of a positive test result is estimated to be 166 hours (331 × 0.5 hour).

Reporting Burden

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN [1]

Description and 21 CFR section	FDA form No.	No. of respondents	No. of responses per respondent	Total annual responses	Average burden per response	Total hours
Registrations or Updates, § 118.11	Form FDA 3733 [2]	150	1	150	2.3	345
Cancellations, § 118.11	Form FDA 3733	15	1	15	1	15
Total						360

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] The term "Form FDA 3733" refers to both the paper version of the form and the electronic system known as the Shell Egg Producer Registration Module, which is available at *http://www.access.fda.gov* per § 118.11(b)(1).

This estimate is based on FDA's experience implementing the Shell Eggs final rule and the average number of new Shell Egg Producer registrations and cancellations received in the past 3 years under § 118.11. Based on FDA experience with implementing the registration provisions of the Shell Eggs final rule, which had staggered compliance dates and gave producers with fewer than 50,000 but at least 3,000 laying hens until July 9, 2012, to register (74 FR 33030 at 33034), FDA expects that it will receive fewer registrations or updates each year over the next 3 years, reflecting compliance with the final rule's registration deadlines. FDA estimates that it will receive 200 registrations or updates in 2013, 150 registrations or updates in 2014, and 100 registrations or updates in 2015, for an average of 150 registrations or updates per year over the next 3 years. FDA received 12 cancellations in 2011 and 19 cancellations in 2012. Based on this experience, FDA estimates that it will receive approximately 15 cancellations per year over the next 3 years.

FDA estimated in the Shell Eggs final rule that listing the information required by the final rule and presenting it in a format that will meet the Agency's registration regulations will require a burden of approximately 2.3 hours per average registration. As detailed in section V.F of the final rule (see 74 FR 33030 at 33080), FDA estimates that it will take the average farm 2.3 hours to register taking into account that some respondents completing the registration may not have readily available Internet access. Thus, the total annual burden for new Shell Egg Producer registrations or updates is estimated to be 345 hours (150 × 2.3 hours).

FDA estimates cancelling a registration will, on average, require a

burden of approximately 1 hour, taking into account that some respondents may not have readily available Internet access. Thus, the total annual burden for cancelling Shell Egg Producer registrations is estimated to be 15 hours (15 cancellations × 1 hour).

Dated: March 20, 2013.

Peter Lurie,

Acting Associate Commissioner for Policy and Planning.

[FR Doc. 2013–07032 Filed 3–26–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0350]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Guidance for Industry on Tobacco Retailer Training Programs

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by April 26, 2013.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–NEW and title ''Guidance for Industry on Tobacco Retailer Training Programs.'' Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Daniel Gittleson, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–5156, *daniel.gittleson@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Guidance for Industry on Tobacco Retailer Training Programs—(OMB Control Number 0910–NEW)

On June 22, 2009, the President signed the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Pub. L. 111–31) into law. The Tobacco Control Act grants FDA important authority to regulate the manufacture, marketing, and distribution of tobacco products to protect the public health generally and to reduce tobacco use by minors.

The Tobacco Control Act provides for lower civil money penalties for violations of sale and distribution, including youth access, and advertising and promotion restrictions issued under section 906(d) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 387f(d)), as amended by the Tobacco Control Act, for retailers who have implemented a training program that complies with standards developed by FDA for such programs (section 103(q)(2) of the Tobacco Control Act). FDA intends to issue regulations establishing standards for approved retailer training programs. In the interim, the guidance is intended to assist tobacco retailers in implementing training programs for employees.

The guidance discusses the elements that should be covered in a training program, such as: (1) Federal laws restricting the sale and distribution, including youth access to, and the advertising and promotion of, cigarettes and smokeless tobacco products; (2) the health and economic effects of tobacco use, especially when the tobacco use begins at a young age; (3) written company policies against the sale of cigarettes and smokeless tobacco to minors; (4) identification of the cigarettes and smokeless tobacco sold in the retail establishment that are subject to the Federal laws prohibiting their sale to persons under the age of 18; and (5) age verification methods.

The guidance recommends that retailers train current employees as soon as practicable and that new employees be trained prior to selling cigarettes and smokeless tobacco. Refresher training should be provided at least annually and more frequently, as needed. In addition, the guidance recommends that retailers review and update their training program, as needed, and take appropriate corrective action after any violation of the regulations restricting sale and distribution, including youth access, and advertising and promotion of cigarettes and smokeless tobacco. The guidance recommends that retailers document any modifications to the training program following such a review.

The guidance recommends that retailers maintain certain records documenting that all individual employees have been trained and that retailers retain these records for 4 years in order to be able to provide evidence of a training program during the 48-month time period covered by the civil money penalty schedules in section 103(q)(2)(A) of the Tobacco Control Act. The guidance also recommends that retailers implement certain hiring and management practices as part of a retailer training program.

In the **Federal Register** of July 16, 2010 (75 FR 41498), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received seven comments in response to the notice, with four comments on the information collection. In the **Federal Register** of November 25, 2011 (76 FR 72710), FDA republished notice of the proposed collection of information in order to comply with section 3506(c)(2)(A) of the Paperwork Reduction Act. FDA received two comments that were beyond the scope of the information request (e.g., raising fines will be more successful than retailer training, support for educating retail employees about the negative effects of using tobacco products). Comments relevant to the information request are addressed in this document.

(Comment 1) Several comments stated that it would be burdensome and costly to keep training records for 4 years due to the high turnover in the retail industry.

(Response) The Tobacco Control Act does not require retailers to implement retailer training programs. However, it provides for two schedules of civil money penalties for violations of restrictions issued under section 906(d) of the FD&C Act pertaining to the sale and distribution of tobacco products, including access, advertising, and promotion restrictions—a schedule of lower penalties for retailers who have implemented a training program that complies with the standards set by FDA and a schedule of higher penalties for those who have not. Until FDA issues regulations establishing standards for approved retailer training programs, the Agency intends to seek penalties within the range provided by section 103(q)(2)(A)(i) of the Tobacco Control Act (for retailers with an approved retailer training program) whether or not the retailer has implemented a training program. FDA may consider further reducing the civil money penalty for retailers who have implemented a

training program. Retailers who wish to implement training programs should retain their records for 4 years to be able to provide evidence of a training program during the 48-month time period covered by the civil money penalty schedules in section 103(q)(2)(A) of the Tobacco Control Act.

(Comment 2) Several comments suggested that retailers be allowed to keep electronic and/or written records of their training programs.

(Response) We agree. The guidance provides that retailers may determine the format of the records to be maintained (e.g., paper, electronic).

(Comment 3) Several comments suggested that, due to the high employee turnover in the retail industry, it would be burdensome for retailers to have job applicants sign an acknowledgment stating that they have read and understand the importance of complying with laws prohibiting the sale of cigarettes and smokeless tobacco.

(Response) We agree with these comments and revised the guidance accordingly. However, we do not believe these changes will affect the burden for this information collection. In light of the comments' statements about the high turnover in the retail industry, it is possible that we underestimated the annual frequency for this recordkeeping. Therefore, we invite comments on the burden for employee acknowledgments to assist FDA in determining more accurate burden estimates in the future.

(Comment 4) One comment suggested that retailers who receive a Complaint for Civil Money Penalties from FDA and who seek to have their penalty reduced because they have a training program should show that all staff involved in the violation had received the initial training and that remedial action was taken after the violation.

(Response) We agree with this comment and revised the guidance to provide recommendations regarding when retailers should review and update their training program. Table 2 of this document includes our burden estimates for reviewing and updating retailer training programs. We estimate that retailers will review and update their training programs, on average, once a year. We invite comment on this burden estimate to assist FDA in determining a more accurate burden estimate in the future.

As discussed in this document, FDA has adjusted the burden for this information collection based on public comments received for this collection of information. FDA's estimate of the number of respondents in tables 1 and 2 is based on data reported to the U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration. According to the fiscal year 2009 Annual Synar Report, there are 372,677 total retail tobacco outlets in the 50 States, District of Columbia, and 8 U.S. territories that are accessible to youth (meaning that there is no State law restricting access to these outlets to individuals older than age 18). Inflating this number by about 10 percent to account for outlets in States that sell tobacco but are, by law, inaccessible to minors, results in an estimated total number of tobacco outlets of 410,000. We assume that 75 percent of tobacco retailers already have some sort of training program for age and identification verification. We expect that some of those retailer training programs already meet the elements in the guidance, some retailers would update their training program to meet the elements in the guidance, and other retailers would develop a training program for the first time. Thus, we estimate that two-thirds of tobacco retailers would develop a training program on a one-time basis that meets the elements in the guidance (66 percent of 410,000 = 270,600).

With regard to reporting burden, we expect that all 270,600 retailers would develop a training program on a one-time basis. Table 1 estimates the one-time burden for retailers. In addition, we expect that all 270,600 retailers would maintain records. Table 2 estimates the recordkeeping burden for retailers.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ONE-TIME REPORTING BURDEN [1]

Activity	Number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
Develop training program	270,600	1	270,600	16	4,329,600
Develop written policy against sales to minors & employee acknowledgment	270,600	1	270,600	1	270,600
Develop internal compliance check program	270,600	1	270,600	8	2,164,800
Total					6,765,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

[2] Because the reporting burden in this table is for one-time activities only, the annualized burden for this table is estimated to be 2,255,000 (6,765,000 one-time burden hours divided by 3 years expected OMB approval).

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity	Number of recordkeepers	Annual frequency per recordkeeping	Total annual records	Hours per record	Total hours
Training program	270,600	4	1,082,400	0.25 (15 minutes)	270,600
Review and update training program	270,600	1	270,600	0.5 (30 minutes)	135,300
Written policy against sales to minors & employee acknowledgment	270,600	4	1,082,400	0.10 (6 minutes)	108,240
Internal compliance check program	270,600	2	541,200	0.5 (30 minutes)	270,600

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]—Continued

Activity	Number of recordkeepers	Annual frequency per recordkeeping	Total annual records	Hours per record	Total hours
Total					784,740

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: *March 21, 2013.*

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–06982 Filed 3–26–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0257]

Summit on Color in Medical Imaging; Cosponsored Public Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of cosponsored public workshop; request for comments.

SUMMARY: The Food and Drug Administration (FDA) and cosponsor International Color Consortium (ICC) are announcing the following public workshop entitled ''Summit on Color in Medical Imaging: An International Workshop on the Technical Framework for Consistency and Interoperability Approaches for Dealing with Color in Medical Images.'' The purpose of the workshop is to bring together key stakeholders to clearly identify areas of need, investigate solutions, and propose best-practice approaches. The recommendations of the summit might include the creation of a technical special interest group either as part of the ICC or in some other forum and the establishment of best-practice guidelines for industry.

DATES: *Date and Time:* The workshop will be held on May 8 and 9, 2013, from 8:30 a.m. to 5 p.m.

Location: The public workshop will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503A), Silver Spring, MD 20993–0002. Entrance for the public meeting participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

Contact: Aldo Badano, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 62, Rm. 3116, Silver Spring, MD 20993–0002, 301–796–2534, *Aldo.Badano@fda.hhs.gov.*

Registration: Registration is free and on a first-come, first-served basis. Persons interested in attending this public workshop must register online by 5 p.m. on April 26, 2013. Early registration is recommended because facilities are limited and, therefore, FDA may limit the number of participants from each organization. If time and space permit, onsite registration on the day of the public workshop will be provided beginning at 7:30 a.m.

To register for the public workshop, please visit FDA's Medical Devices News & Events—Workshops & Conferences calendar at *http://www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/default.htm.* (Select this public workshop from the posted events list.) Please provide complete contact information for each attendee, including name, title, affiliation, mailing address, email address, and telephone number. Those without Internet access should contact Susan Monahan at 301–796–5661 to register. Registrants will receive confirmation after they have been accepted. You will be notified if you are on a waiting list.

If you need special accommodations due to a disability, please contact Susan Monahan (*Susan.Monahan@fda.hhs.gov* or 301–796–5661) no later than April 26, 2013.

Streaming Webcast of the Public Workshop: This workshop will also be available via Webcast. Persons interested in viewing the Webcast must register online by 5 p.m. on April 26, 2013. Early registration is recommended because Webcast connections are limited. Organizations are requested to register all participants, but to view using one connection per location. Webcast participants will be sent technical system requirements after registration and will be sent connection access information after May 2, 2013. If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro program, visit *http://www.adobe.com/go/connectpro_overview.* (FDA has verified the Web site addresses in this document, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register.**)

Requests for Oral Presentations: This workshop includes a public comment session. If you wish to present during a public comment session, you must indicate this at the time of registration. You shall also submit a title and short abstract of your comments to Veronika Lovell at *Veronika.lovell@sunchemical.com.*

Comments: FDA is holding this public workshop to obtain information on the topics identified in Section II. No commercial or promotional material will be permitted to be presented or distributed at the workshop. In order to permit the widest possible opportunity to obtain public comment, FDA is soliciting either electronic or written comments on all aspects of the public workshop topics. The deadline for submitting comments related to this public workshop is May 31, 2013.

Regardless of attendance at the public workshop, interested persons may submit either electronic or written comments. Submit electronic comments to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. It is only necessary to send one set of comments. Please identify comments with the docket number found in brackets in the heading of this document. In addition, when responding to specific topics as outlined in section II, please identify the topic you are addressing. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday and will be posted to the docket at *http://www.regulations.gov.*

Transcripts: Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov.* It may be viewed at the Division of Dockets Management (see *Comments*). A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. Written

requests are to be sent to the Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857. A link to the transcripts will also be available approximately 45 days after the public workshop on the Internet at *http://www.fda.gov/MedicalDevices/NewsEvents/WorkshopsConferences/default.htm*. (Select this public workshop from the posted events list).

SUPPLEMENTARY INFORMATION:

I. Background

There is increased utilization of color in several areas of medical imaging and a wider range of availability of a variety of hardware and software platforms that rely on medical and non-medical devices to implement medical imaging product solutions for color imagery. This new reality has brought up issues related to the interoperability of devices and to the framework of accurately dealing with color data in medical imaging products. This workshop brings together key stakeholders to clearly identify areas of need, investigate solutions and propose best-practice approaches. The recommendations of the summit might include the creation of a technical special interest group either as part of the ICC or in some other forum and the establishment of best-practice guidelines for industry. The summit will address emerging utilization of color in medical imaging in areas including clinical photography, ophthalmic photography, digital microscopy, digital histopathology, endoscopy, laparoscopy, telemedicine, handheld mobile displays, display devices, color measurement, and standards and professional group recommendations from organizations such as the Digital Imaging and Communications in Medicine, ICC, International Commission on Illumination, International Electrotechnical Commission, and American Association of Physicists in Medicine.

I. Topics

There is increasing use of color in medical imaging but so far there is no clear definition of a technical framework for color management across the imaging chain from acquisition, pre- and post-processing, to storage, transfer and display. Due to the increasing use of color images and the need for integrated electronic health records, this issue is of current relevance for device manufacturers, users, and regulators. In addition, topics might include color methods for handheld display devices, system approaches for color consistency, and inter-vendor interoperability.

Scheduled session topics include: (1) General landscape of color use in medical imaging, (2) whole-slide imagers and digital microscopy/histopathology, (3) endoscopy and laparoscopy, (4) other medical imaging modalities, (5) standards and professional organization recommendations, (6) color in telemedicine, and (7) color in mobile displays.

Dated: March 22, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–07031 Filed 3–26–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Web-based Media Literacy Parent Training for Substance Use Prevention in Rural Locations

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute on Drug Abuse (NIDA), the National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) 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) 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and For Further Information: To obtain a copy of the data collection plans and instruments, contact Dr. Augie Diana, Health Scientist Administrator, Prevention Research Branch, Division of Epidemiology, Services, and Prevention Research, NIDA, NIH, 6001 Executive Boulevard, Room 5163, Bethesda, MD 20892, or call non-toll-free number (301) 443–1942 or Email your request, including your address to: *dianaa@nida.nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: Web-based Media Literacy Parent Training for Substance Use Prevention in Rural Locations, 0925-New, National Institute on Drug Abuse (NIDA), National Institutes of Health (NIH).

Need and Use of Information Collection: This study will develop a web-based media literacy substance use prevention intervention for use with parents and their elementary school children (approximately ages 7–12), and will evaluate the program in a randomized controlled trial to establish program efficacy in six rural communities in North Carolina and Texas. The primary objectives of the study are to assess the efficacy of a media literacy education program that is specifically designed to overcome barriers to prevention efforts in rural communities, and to provide the scientific basis for establishing the program, Media Detective Family, as an evidence-based substance use prevention curriculum. The information will provide valuable information concerning: (1) The appropriateness of using technology for substance use prevention programming (i.e., internet, Smartphone, or tablet-based applications) to reach rural families with elementary school-aged children; (2) improvements in parents' and children's critical thinking skills associated with intervention exposure; (3) improvements in parent-child communication about substances and the media associated with intervention exposure; and (4) reductions in children's behavioral intentions to use substances associated with intervention exposure.

OMB approval is requested for two years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 1067.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Number of respondents	Frequency of response	Average time per response	Annual hour burden
Adults				
Pretest	200	1	1	200.00
Posttest		1	45/60	150.00
Follow-up		1	45/60	150.00
Usage Log		2	10/60	67.00
Children				
Pretest	200	1	1	200.00
Posttest		1	45/60	150.00
Follow-up		1	45/60	150.00

Dated: March 20, 2013.

Helio Chaves,

Deputy Director Office of Management, NIDA, NIH.

[FR Doc. 2013–07038 Filed 3–26–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of the Implementation of the National Institutes of Health (NIH) Electronic Vendor Invoice Program (eVIP)

SUMMARY: The purpose of this notice is to announce the future implementation of the Electronic Vendor Invoice Program (eVIP) at the National Institutes of Health (NIH) and the planned modification of NIH awards to require vendors to use the eVIP in future contracts.

FOR FURTHER INFORMATION CONTACT: Darlene Walls, The Division of Acquisition Policy and Evaluation, The National Institutes of Health, 6100 Executive Blvd., Rockville, Maryland 20852 or *PPMB@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: Electronic invoicing will enhance compliance with laws and regulations that govern the accuracy, timeliness, and cost-effectiveness of the Federal Government's payment process. Executive Order 13576, Delivering an Efficient, Effective, and Accountable Government, issued June 13, 2011, requires Federal Government agencies to become more effective and efficient, cut waste, and streamline Government operations. The Federal Acquisition Regulation (FAR) subpart 32.9 prescribes policies, procedures, and clauses for implementing prompt payment regulations. Electronic invoice submission through eVIP will reduce inefficiencies related to paper-based invoicing, reduce interest payments caused by late payments of invoices, and ultimately foster the prompt payment of invoices to vendors.

Public Law 111–204, Improper Payments Elimination and Recovery Act of 2010, requires Federal Government agencies to periodically review all programs and identify the programs and activities that may be susceptible to significant improper payments. Section 2(h)(4) of Public Law 111–204 requires the head of the agency to conduct a financial management improvement program, consistent with the rules prescribed by the Director of the Office of Management and Budget.

The first priority of the program must address problems that contribute directly to the agency improper payments. The eVIP solution allows for vendor invoices to be matched to the award document electronically, thereby minimizing processing errors associated with invoice mailing, invoice scanning, or invoice entry and enhances the ability to make proper invoice payments. Ultimately, the eVIP solution is expected to result in a decrease in interest payments, an increase in data accuracy, and provide an enhanced ability to make proper invoice payments.

The eVIP will be implemented in three phases, Phase I Pilot, Phase II Pilot, and Roll-Out:

Phase I Pilot: Phase I was initiated in October 2009. Four pilot vendors were provisioned in the electronic system to test the functionality for viewing invoices, and later, submitting invoices for payment. Lessons learned were gathered from the feedback received and areas for improvement were identified.

Phase II Pilot: Enhancements in processes are being made to the electronic payment system based on the lessons learned during Phase I. Six additional vendors will be added and both Phase I and Phase II vendors will be provisioned using a authentication process different from that available in Phase I, and will be provided access to view invoices and submit invoices for payment.

Roll-Out: Phase II will be initiated in March 2013. The results of the Phase II effort will be assessed prior to formal implementation of the eVIP initiative. It is anticipated that implementation will occur through the use of a phased approach, beginning in October 2013.

Dated: March 9, 2013.

Lawrence A. Tabak,

Deputy Director, National Institutes of Health.

[FR Doc. 2013–07037 Filed 3–26–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Developmental Centers in Benign Urology (P20s, RFA–DK–12–022)

Date: May 17, 2013.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Najma Begum, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes Of Health,

Room 749, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 21, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–06929 Filed 3–26–13; 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 Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Metabolism.

Date: April 18, 2013.

Time: 11:00 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Krish Krishnan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435–1041, *krishnak@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 21, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–06930 Filed 3–26–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–0182]

National Offshore Safety Advisory Committee

AGENCY: United States Coast Guard.

ACTION: Committee Management; Notice of Federal Advisory Committee Meetings.

SUMMARY: The National Offshore Safety Advisory Committee (NOSAC) will meet on April 17 and 18, 2013, in New Orleans, LA, to discuss various issues related to safety of operations and other matters affecting the oil and gas offshore industry. These meetings are open to the public.

DATES: A subcommittee of NOSAC will meet on Wednesday, April 17, 2013 from 1 p.m. to 3 p.m. and the full committee will meet on Thursday, April 18, 2013, from 8:30 a.m. to 4 p.m. Please note that the meetings may close early if the committee has completed its business or be extended based on the level of public comments.

ADDRESSES: The meetings will be held at the Wyndham Garden New Orleans Baronne Plaza Hotel, 201 Baronne Street, New Orleans, LA 70112, 1–504–522–0083, *http://www.wyndham.com/hotels/louisiana/new-orleans/wyndham-garden-baronne-plaza-new-orleans/hotel-overview.* The April 17 afternoon subcommittee meeting will be held in the Magnolia Room. The April 18 meeting will be held in the Jazz Hall Ballroom.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the person listed in **FOR FURTHER INFORMATION CONTACT** as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee prior to the adoption of recommendations as listed in the ''AGENDA'' section below. Comments must be submitted in writing no later than April 2, 2013, and must be identified by USCG–2013–0182 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.
- To avoid duplication, please use only one of these methods.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this Notice, go to *http://www.regulations.gov,* insert USCG–2013–0182 in the Keyword ID box, press Enter, and then click on the item you are interested in viewing.

A public comment period will be held during the meeting on April 18, 2013, and speakers are requested to limit their comments to 5 minutes. Please note that the public comment period may end before the time indicated, following the last call for comments. Contact one of the individuals listed below to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Commander Rob Smith, Designated Federal Official (DFO) of NOSAC, Commandant (CG–OES–2), U.S. Coast Guard, 2100 Second Street SW., Stop 7126, Washington, DC 20593–0001; telephone (202) 372–1410, fax (202) 372–1926, or Mr. Scott Hartley, Alternate Designated Federal Official (ADFO) of NOSAC, Commandant (CG–OES–2), U.S. Coast Guard, 2100 Second Street SW., Stop 7126, Washington, DC 20593–0001; telephone (202) 372–1437, fax (202) 372–1926. 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: Notice of this meeting is given under the *Federal Advisory Committee Act,* 5 U.S.C. App. (Pub. L. 92–463). NOSAC provides advice and recommendations to the Department of Homeland Security on matters and actions concerning activities directly involved with or in support of the exploration of offshore mineral and energy resources insofar as they relate to matters within U.S. Coast Guard jurisdiction.

Agenda

Day 1

NOSAC's active subcommittee (Recommended Standards for Accommodation Service Vessels) will meet on April 17, 2013 between 1 p.m. and 3 p.m., to discuss its ongoing work.

Day 2

The NOSAC will meet on April 18, 2013 to review and discuss progress reports and recommendations received from the Recommended Standards for Accommodation Service Vessels subcommittee from their deliberations on April 17. The Committee will then use this information and consider public comments in formulating recommendations to the agency. Public comments or questions will be taken at the discretion of the DFO during the discussion and recommendation portion of the meeting as well as during public comment period, see Agenda item (8).

A complete agenda for April 18th is as follows:

(1) Presentation and discussion of progress report and any recommendations from the subcommittee and subsequent actions on:

(a) Standards for Accommodation Service Vessels.

(2) New Business—Introduction of new Task Statements:

(a) Life Saving and Fire Fighting Voluntary Standards on the Outer Continental Shelf (OCS);

(b) Electrical Equipment in Hazardous Areas on Foreign Flag Mobile Offshore Drilling Units (MODUs);

(c) Safety Impact of Liftboat Sea Service Limitations;

(d) Marine Casualty Reporting/Form CG–2692 Revisions; and

(e) U.S. Implementation of Standards from International Labor Organization—Maritime Convention of 2006,

(3) An update on recent U.S. Coast Guard (USCG) regulations and **Federal Register** notices that affect the offshore industry;

(4) USCG Outer Continental Shelf National Center of Expertise update on U.S. Coast Guard OCS training initiatives.

(5) Update on International Maritime Organization activities of interest to the OCS community;

(6) Towing of MODUs;

(7) Overview and history of manning on MODUs; and

(8) Period for public comment.

A copy of each report will be available approximately 7 days prior to the meeting at the *https://www.fido.gov* Web site or by contacting Mr. Scott Hartley. Use ''code 68'' to identify NOSAC when accessing this material through the Web site. Once you have accessed the committee page, click on the meetings tab and then the ''View'' button for the meeting dated April 18, 2013, to access the information for this meeting. Minutes will be available approximately 30 days after this meeting. Both minutes and documents applicable for this meeting can also be found at an alternative site using the following Web address: *https://homeport.uscg.mil/NOSAC.*

The meeting will be transcribed. A transcript of the meeting and any material presented at the meeting will be made available through the *https://www.fido.gov* and *https://homeport.uscg.mil/NOSAC* Web sites.

The committee will review the information presented on each issue, deliberate on any recommendations presented in the subcommittee's progress report, and formulate recommendations for the agency's consideration.

Dated: March 21, 2013.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2013–07092 Filed 3–26–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–0194]

Navigation Safety Advisory Council

AGENCY: United States Coast Guard, DHS.

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: The Navigation Safety Advisory Council (NAVSAC) will meet April 10–11, 2013, in Arlington, Virginia to discuss matters relating to maritime collisions, rammings, groundings; Inland and International Rules of the Road; navigation regulations and equipment; routing measures; marine information; diving safety; and aids to navigation systems. The meeting will be open to the public.

DATES: NAVSAC will meet Wednesday, April 10, 2013, from 8 a.m. to 5 p.m., and Thursday, April 11, 2013, from 8 a.m. to 5 p.m. Please note that the meeting may close early if the committee has completed its business. Pre-registration and written comments are due April 1, 2013.

ADDRESSES: The meeting will be held at the Navy League Building, Coast Guard Recruiting Command, 5th floor conference room, 2300 Wilson Boulevard, Suite 500, Arlington, Virginia 20598. All visitors to the Navy League Building must pre-register to be admitted to the building. You may pre-register by contacting Mr. Burt Lahn listed in the **FOR FURTHER INFORMATION CONTACT** section below.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Mr. Burt Lahn listed in the **FOR FURTHER INFORMATION CONTACT** section below as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee prior to the formulation of recommendations as listed in the ''Agenda'' section below. You may submit written comments no later than April 1, 2013, and must be identified by USCG–2013–0194 using one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments (preferred method to avoid delays in processing).
- *Fax:* 202–493–2251.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov.*

A public comment period will be held during the meeting on April 10, 2013, from 3:00 p.m. to 4:00 p.m. and April 11, 2013, from 11:00 a.m. until the close of the meeting. Public presentations may also be given. Speakers are requested to limit their presentation and comments to 10 minutes. Please note that the public comment period may end before the time indicated, following the last call for comments. To register as a speaker, contact Mr. Burt Lahn listed

in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: If you have questions about this meeting, please contact Mr. Mike Sollosi, the NAVSAC Alternate Designated Federal Officer (ADFO), by telephone at 202–372–1545 or via email at *mike.m.sollosi@uscg.mil;* or Mr. Burt Lahn, NAVSAC meeting coordinator, at telephone 202–372–1526 or email *burt.a.lahn@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: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (Pub. L. 92–463).

The NAVSAC is an advisory committee authorized by 33 U.S.C. 2073 and chartered under the provisions of the FACA. NAVSAC provides advice and recommendations to the Secretary, through the Commandant of the U.S. Coast Guard, on matters relating to prevention of maritime collisions, rammings, and groundings; Inland and International Rules of the Road; navigation regulations and equipment; routing measures; marine information; diving safety; and aids to navigation systems.

The meeting will be held at the Navy League Building, Coast Guard Recruiting Command, 5th floor conference room, 2300 Wilson Boulevard, Suite 500, Arlington, Virginia 20598. *http://maps.google.com/maps?hl=en&gbv=2&um=1&ie=UTF-8&q=navy+league+building+arlington+va&fb=1&gl=us&hq=navy+league+building&hnear=0x89b7b69d7ba7a70f:0xf8cf6fc845f6b093,Arlington,+VA&cid=0,0,16025978759884607342&sa=X&ei=c-4YUcGuKcy50AH0nYGgDQ&ved=0CCIQtQMwAg.*

Agenda: The NAVSAC will meet to review, discuss and formulate recommendations on the following topics: Wednesday, April 10, 2013:

(1) Update on all past Resolutions to the Council. The Council will receive an update on the status of all outstanding resolutions and open action items.

(2) Risk assessment updates. The Coast Guard is currently conducting formal risk assessments for several U.S. ports/waterways. The Council will receive a briefing on why the risk assessments were initiated, how they are being conducted, what the risk assessments will produce, and how the Coast Guard will act on the results.

(3) E-Navigation Strategy. Under the auspices of the Committee on the Marine Transportation System, the Coast Guard and other agencies have developed a National e-Navigation Strategy that will establish a framework for data exchange between and among ships and shore facilities. The Council will receive an update on how the use of the Automatic Identification System (AIS) and the Physical Oceanographic Real Time System support the E-Navigation Strategy.

(4) Atlantic Coast Ports Access Route Study (ACPARS). The Council will receive an update on the ACPARS undertaken to accommodate offshore wind energy development. The update will include a presentation on how AIS track data is being included as a Geospatial Information System component of the study.

(5) In response to a statement made by a member of the public during the April 2012 meeting, the Council will receive an update on requirements for encoding information into shipboard AIS devices.

Following the above presentations, the Council will form working groups to discuss and provide recommendations on the following tasks as appropriate:

(1) NAVSAC Task 05–05—Lights for Public Safety and Law Enforcement Vessels. At the November 2012 NAVSAC meeting, the Council briefly discussed the task and its ongoing work, and in response to task statement 05–05, provided Resolution 12–07, concerning lights on vessels engaged in defined public safety activities. The Council will be asked to continue discussions on this task and provide an update to Resolution 12–07 that includes recommendations for lights on law enforcement vessels engaged in law enforcement activities.

(2) NAVSAC Task 12–03—Unmanned vehicles/vessels (UV). The Council was asked to review current UV standards of operation, consider whether the latest generation of these vessels should employ AIS, and propose additional rules/standards of operation for both unmanned underwater vehicles, and unmanned surface vessels. NAVSAC was asked to provide a Resolution to this task at the spring 2013 meeting. At the November 2012 NAVSAC meeting, the Council briefly discussed the task and its ongoing work, and in response to task statement 12–03, provided Resolution 12–08 on recommendations for unmanned underwater vehicles. The Council will be asked to continue discussions on this task and provide an update to Resolution 12–08 that includes recommendations for rules/standards of operation for unmanned surface vessels.

(3) NAVSAC Task 13–01—Special Distinctive Lights for Small Passenger Vessels. Various port and government authorities, in conjunction with operators of small passenger vessels, have designed and installed distinctive lights for their vessels. The Council will be briefed on some of these lighting schemes and asked to consider whether a change to the navigation rules is needed to standardize these lighting schemes nationwide.

Public comments or questions will be taken during the meeting after the Council discusses each issue and prior to the Council formulating recommendations on each issue. There will also be a public comment period at the end of the meeting.

Thursday, April 11, 2013:

(1) Working Group Discussions continued from April 10.
(2) Working Group Reports presented to the Council.
(3) New Business:
  a. Summary of NAVSAC Action Items.
  b. Schedule Next Meeting Date—Fall 2013.
  c. Council discussions and summary of new tasks and pending action items.

A public comment period will be held after the discussion of new tasks. Speakers' comments are limited to 10 minutes each. Public comments or questions may also be taken during the discussion and recommendations, and new business portions of the meeting.

Dated: March 22, 2013.

P.F. Cook,

Acting Director, Marine Transportation Systems, Captain, U.S. Coast Guard.

[FR Doc. 2013–07155 Filed 3–27–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–0088]

Prince William Sound Regional Citizens' Advisory Council (PWSRCAC) Charter Renewal

AGENCY: Coast Guard, DHS.

ACTION: Notice of recertification.

SUMMARY: The purpose of this notice is to inform the public that the Coast Guard has recertified the Prince William Sound Regional Citizens' Advisory Council (PWSRCAC) as an alternative voluntary advisory group for Prince William Sound, Alaska. This certification allows the PWSRCAC to monitor the activities of terminal facilities and crude oil tankers under the Prince William Sound Program established by statute.

DATES: This recertification is effective from March 1, 2013, until February 28, 2014.

FOR FURTHER INFORMATION CONTACT: LCDR Jason Boyle, Seventeenth Coast Guard District (dpi), by phone at (907) 463–2821, email *Jason.T.Boyle@uscg.mil* or by mail at P.O. Box 25517, Juneau, Alaska 99802.

SUPPLEMENTARY INFORMATION:

A. Background and Purpose

As part of the Oil Pollution Act of 1990, Congress passed the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (the Act), 33 U.S.C. 2732, to foster a long-term partnership among industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals and oil tankers.

On October 18, 1991, the President delegated his authority under 33 U.S.C 2732(o) to the Secretary of Transportation in Executive Order 12777, section 8(g) (see 56 FR 54757; October 22, 1991) for purposes of certifying advisory councils, or groups, subject to the Act. On March 3, 1992, the Secretary redelegated that authority to the Commandant of the USCG (see 57 FR 8582; March 11, 1992). The Commandant redelegated that authority to the Chief, Office of Marine Safety, Security and Environmental Protection (G–M) on March 19, 1992 (letter #5402).

On July 7, 1993, the USCG published a policy statement, 58 FR 36504, to clarify the factors that shall be considered in making the determination as to whether advisory councils, or groups, should be certified in accordance with the Act.

The Assistant Commandant for Marine Safety and Environmental Protection (G–M), redelegated recertification authority for advisory councils, or groups, to the Commander, Seventeenth Coast Guard District on February 26, 1999 (letter #16450).

On September 16, 2002, the USCG published a policy statement, 67 FR 58440, that changed the recertification procedures such that applicants are required to provide the USCG with comprehensive information every three years (triennially). For each of the two years between the triennial application procedure, applicants submit a letter requesting recertification that includes a description of any substantive changes to the information provided at the previous triennial recertification. Further, public comment is not solicited prior to recertification during streamlined years, only during the triennial comprehensive review.

On March 1, 2003, the Coast Guard was transferred from the Department of Transportation (DoT) to the Department of Homeland Security (DHS) and retained the previous delegations that were provided while it was in the DoT.

The Alyeska Pipeline Service Company pays the PWSRCAC $2.9 million annually in the form of a longterm contract. In return for this funding, the PWSRCAC must annually show that it ''fosters the goals and purposes'' of OPA 90 and is ''broadly representative of the communities and interests in the vicinity of the terminal facilities and Prince William Sound.'' The PWSRCAC is an independent, nonprofit organization founded in 1989. Though it receives federal oversight like many independent, non-profit organizations, it is not a federal agency. The PWSRCAC is a local organization that predates the passage of OPA 90. The existence of the PWSRCAC was specifically recognized in OPA 90 where it is defined as an ''alternate voluntary advisory group.''

Alyeska funds the PWSRCAC, and the Coast Guard makes sure the PWSRCRC operates in a fashion that is broadly consistent with OPA 90.

Recertification

By letter dated, March 1, 2013, the Commander, Seventeenth Coast Guard certified that the PWSRCAC qualifies as an alternative voluntary advisory group under 33 U.S.C. 2732(o). This recertification terminates on February 28, 2014.

Dated: March 1, 2013.

T.P. Ostebo,

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

[FR Doc. 2013–06987 Filed 3–26–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2010–1066]

Recreational Boating Safety Projects, Programs and Activities Funded Under Provisions of the Transportation Equity Act for the 21st Century; Accounting of

ACTION: Notice.

SUMMARY: In 1999, the Transportation Equity Act for the 21st Century made $5 million per year available for the payment of Coast Guard expenses for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program. In 2005, the law was amended, and the amount was increased to $5.5 million. The Coast Guard is publishing this notice to satisfy a requirement of the Act that a detailed accounting of the projects, programs, and activities funded under the national recreational boating safety program provision of the Act be published annually in the **Federal Register**. In this notice, we have specified the funding amounts the Coast Guard has committed, obligated, or expended during fiscal year 2012, as of September 30, 2012.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, call Jeff Ludwig, Regulations Development Manager, telephone 202–372–1061.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The Transportation Equity Act for the 21st Century became law on June 9, 1998 (Pub. L. 105–178; 112 Stat. 107). The Act required that of the $5 million made available to carry out the national recreational boating safety program each year, $2 million shall be available only to ensure compliance with Chapter 43 of title 46, U.S. Code. On September 29, 2005, the Sportfishing and Recreational Boating Safety Amendments Act of 2005 was enacted (Public Law 109–74; 119 Stat. 2031). This Act increased the funds available to the national recreational boating safety program from $5 million to $5.5 million annually, and stated that ''not less than'' $2 million shall be available only to ensure compliance with Chapter 43 of title 46, U.S. Code.

These funds are available to the Secretary of Homeland Security (Secretary) from the Sport Fish Restoration and Boating Trust Fund established under 26 U.S.C. 9504(a) for payment of Coast Guard expenses for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program. Under 46 U.S.C. 13107(c), no funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized; namely, for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program. Amounts made available under 46 U.S.C. 13107(c) remain available during the two succeeding fiscal years. Any amount that is unexpended or unobligated at the end of the 3-year period during which it is available, shall be withdrawn by the Secretary and allocated to the States in addition to any other amounts available

for allocation in the fiscal year in which they are withdrawn or the following fiscal year.

Use of these funds requires compliance with standard Federal contracting rules with associated lead and processing times resulting in a lag time between available funds and spending. The total amount of funding transferred to the Coast Guard from the Sport Fish Restoration and Boating Trust Fund and committed, obligated, and/or expended during fiscal year 2012 for each activity is shown below.

Specific Accounting of Funds

Factory Visit Program/Boat Testing Program: Funding was provided to continue the national recreational boat factory visit program, initiated in January 2001. Under the factory visit program, contracted personnel, acting on behalf of the Coast Guard, visited 1,150 recreational boat manufacturers during the 2012 reporting year to either inspect for compliance with Federal regulations, communicate with the manufacturers as to why they need to comply with Federal regulations, or educate them, as necessary, on how to comply with Federal regulations. Funding was also provided for testing of certain associated equipment and in-water testing of atypical and used recreational boats for compliance with capacity and flotation standards. Funding in the amount of $1,984,621 was provided for the Factory Visit Program/Boat Testing Program, with an additional $857 for travel expenses. ($1,985,478).[1]

New Recreational Boating Safety Associated Travel: Travel by employees of the Boating Safety Division was performed to carry out additional recreational boating safety actions and to gather background and planning information for new recreational boating safety initiatives, in support of the National Recreational Boating Safety Program Strategic Plan. ($23,367).

Boating Accident News Clipping Services: Funding was provided to continue to gather daily news stories of recreational boating accidents nationally for more real time accident information and to identify accidents that may involve regulatory non-compliances or safety defects. ($82,900).

Web-based Document Management System: Funding was provided to continue to provide a web-based document management system to better enable the handling of thousands of recreational boating recall case and campaign reports. ($60,000).

Recreational Boating Safety (RBS) Outreach Program: Funding was allocated for this program, which provides full marketing, media, public information, and program strategy support to the nation-wide RBS effort. The goal is to coordinate the RBS outreach initiatives and campaigns, some of which include: National Boating Under the Influence Campaign (BUI), ''Boat Responsibly!'', Life Jacket Wear, Vessel Safety Check Program (VSC), Boating Safety Education Courses, Propeller Strike Avoidance, Carbon Monoxide Poisoning Awareness and Education, and other recreational boating safety issues on an as needed basis. ($845,598).

Boating Accident Report Database (BARD) Web System: Funding was allocated to continue providing the BARD Web System, which enables reporting authorities in the 50 States, five U.S. Territories, and the District of Columbia to submit their accident reports electronically over a secure Internet connection. The system also enables the user community to generate statistical reports that show the frequency, nature, and severity of boating accidents. Fiscal year 2012 funds supported system maintenance, development, and technical (hotline) support. ($372,440).

Personnel Support: Funding was provided for personnel to support the development of new regulations and to conduct boating safety-related research and analysis. ($681,773).

Reimbursable Salaries: Funding was provided to carry out the work as prescribed in 46 U.S.C. 13107(c) and as described herein. The first position was that of a professional mathematician/statistician to conduct necessary national surveys and studies on recreational boating activities as well as to serve as a liaison to other Federal agencies that are conducting boating surveys so that we can pool our resources and reduce costs. The second position was that of an Outreach Coordinator with responsibilities that include overseeing and managing RBS projects related to carbon monoxide poisoning, propeller injury mitigation, and manufacturer compliance initiatives. ($296,000).

Web site Support: Funding for this initiative provides a full range of public media and boating safety information at *http://www.uscgboating.org* for a worldwide audience. It covers a wide spectrum of boating safety related topics and is dedicated to reducing loss of life, injuries, and property damage that occur on U.S. waterways by improving the knowledge, skills, and abilities of recreational boaters. ($79,658).

Of the $5.5 million made available to the Coast Guard in fiscal year 2012, $2,280,621 has been committed, obligated, or expended and an additional $2,146,591 of prior fiscal year funds have been committed, obligated, or expended, as of September 30, 2012.

Authority

This notice is issued pursuant to 46 U.S.C. 13107(c)(4).

Dated: March 20, 2013.

Paul F. Thomas,

Captain, U.S. Coast Guard, Director of Inspections & Compliance.

[FR Doc. 2013–06986 Filed 3–26–13; 8:45 am]

BILLING CODE 9110–04–P

[1] Section 13707(c)(1) of title 46 U.S.C. requires that ''* * *not less than $2,000,000 be available to ensure compliance with chapter 43 of title 46 U.S.C.[—Recreational Vessels].'' For purposes of satisfying this requirement, we consider $100,000 of funding for ''personnel support'' and $140,000 for ''reimbursable salaries'' in addition to the amount of $1,985,478 itemized for Factory Visit Program/Boat Testing Program. We did not include those amounts in the total for Factory Visit Program/Boat Testing Program because the broad categories of ''personnel support'' and ''reimbursable salaries'' are accounted for separately below.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–0184]

National Offshore Safety Advisory Committee; Vacancies

AGENCY: United States Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The United States Coast Guard is requesting applications from qualified candidates seeking consideration for appointment as members to the National Offshore Safety Advisory Committee (NOSAC). NOSAC advises the Secretary of the Department of Homeland Security (DHS) on matters and actions concerning activities directly involved with or in support of the exploration of offshore mineral and energy resources insofar as they relate to matters within Coast Guard jurisdiction.

DATES: Applicants should submit a cover letter and resume in time to reach the Alternate Designated Federal Officer (ADFO) on or before May 28, 2013.

ADDRESSES: Applicants should send their cover letter and resume via one of the following methods:

- *By mail:* Commandant (CG–OES–2), Attn: Vessel and Facility Operations Standards, U.S. Coast Guard, 2100 Second Street SW., STOP 7126, Washington, DC 20593–7126; or
- *By phone:* (202) 372–1437; or
- *By fax:* (202) 372–1926; or

• *By email: Scott.E.Hartley@uscg.mil.*

This notice, is available in our online docket, USCG–2013–0184, at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Scott E. Hartley, ADFO of NOSAC; telephone (202) 372–1437; fax (202) 372–1926; email *Scott.E.Hartley@uscg.mil* or Commander Rob Smith, Designated Federal Officer (DFO) of NOSAC; telephone 202–372–1410; fax 202–372–1926; email at *Robert.L.Smith@uscg.mil.*

SUPPLEMENTARY INFORMATION: NOSAC is governed by the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (Pub. L. 92–463) and was established under the authority of Title 6 U.S.C. Section 451 to advise the Secretary of DHS on matters and actions concerning activities directly involved with or in support of the exploration of offshore mineral and energy resources insofar as they relate to matters within Coast Guard jurisdiction.

The Committee expects to meet twice a year: April in New Orleans, LA and November in Houston, TX.

We will consider applications for the six positions listed below that will become vacant on January 31, 2014:

(a) One member representing companies, organizations, enterprises or similar entities engaged in the production of petroleum;

(b) One member representing companies, organizations, enterprises or similar entities engaged in offshore drilling;

(c) One member representing companies, organizations, enterprises or similar entities engaged in the support, by offshore supply vessels or other vessels, of offshore operations;

(d) One member representing companies, organizations, enterprises or similar entities providing safety and training services to the offshore industry;

(e) One member representing companies, organizations, enterprises or similar entities providing environmental protection, compliance or response services to the offshore industry; and

(f) One member representing companies, organizations, enterprises or similar entities engaged in offshore oil exploration and production on the Outer Continental Shelf of Alaska.

To be eligible, applicants for positions (a–f) should be employed by companies, organizations, enterprises or similar entities, have expertise, knowledge and experience regarding the technology, equipment and techniques that are used or are being developed for use in the exploration for, and the recovery of, offshore mineral resources.

Registered lobbyists are not eligible to serve on federal advisory committees. Registered lobbyists are lobbyists required to comply with provisions contained in the Lobbying Disclosure Act of 1995 (Pub. L. 104–65, as amended).

Each NOSAC member serves a term of office up to three years. Members may be considered to serve a maximum of three consecutive terms. All members serve at their own expense and receive no salary or reimbursement of travel expenses, or other compensation from the Federal Government.

DHS does not discriminate in employment on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disabilities and genetic information, age, membership in an employee organization, or any other non-merit factor.

If you are interested in applying to become a member of NOSAC, send a cover letter stating the position you wish to represent, providing your expertise, knowledge and experience that qualify you for service on NOSAC. In addition, please include a Curriculum Vitae (CV) or resume containing your current home address, a current email address, a current telephone number, your qualifications and work experience. During the vetting process, applicants may be asked by the White House Liaison Office through the United States Coast Guard to provide their date of birth and social security number. To visit our online docket, go to *http://www.regulations.gov,* enter the docket number for this notice (USCG–2013–0184) in the Search box, and click ''Go''. Please do not post your resume on this site.

Dated: March 21, 2013.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2013–07088 Filed 3–26–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Extension of Agency Information Collection Activity Under OMB Review: National Explosives Detection Canine Team Program (NEDCTP) Handler Training Assessment Survey (Formerly Named: Graduate Training Feedback Form)

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-day Notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0041 abstracted below, to OMB for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on December 13, 2012, 77 FR 74201. No comments were received in response to the notice. The collection involves the electronic submission of numerical ratings and written comments about the quality of training instruction from students who graduate from the Federal Air Marshal Service (FAMS)/Canine Training and Evaluation Section (CTES) Explosives Detection Canine Handlers Course, Passenger Screening Canine Handler Course and the Supervisor/Trainer Seminars.

DATES: Send your comments by April 26, 2013. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Susan L. Perkins, TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; telephone (571) 227–3398; email *TSAPRA@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Handler Training Assessment Survey and Supervisor/Trainer Assessment Survey.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652–0041.

Forms(s): TSA Form 1935–1.

Affected Public: State and local law enforcement officers as well as TSA personnel who are trained to be TSA National Explosives Detection Canine Team Program (NEDCTP) canine handlers.

Abstract: The FAMS/CTES Explosives Detection Canine Handlers Course, Passenger Screening Canine Handler Course and the Supervisor/Trainer Seminars are given to state and local law enforcement officers as well as TSA personnel who are trained to be canine handlers. The state and local personnel participate under agency specific cooperative agreements in that portion of the TSA Grant program administered by the National Canine Program (NCP). The Handler Training Assessment Survey captures from graduating students numerical ratings and written comments about the quality of training instruction at the FAMS/CTES Explosives Detection Canine Handlers Course, Passenger Screening Canine Handler Course and the Supervisor/Trainer Seminars. The data are collected electronically through the NCP Canine Web site (a secure Web site accessible only by authorized personnel) and provides valuable feedback to the Supervisory Agent in Charge (SAC), CTES instructional staff and supervisors on how the training material was presented and received. The Assessment Surveys are mandatory for students who successfully complete training, but the students may remain anonymous when completing the survey. Once reviewed, the feedback is used to improve the course curriculum and course of instruction.

Number of Respondents: Average 180 students per calendar year.

Estimated Annual Burden Hours: Approximately one hour per participant, 180 hours per calendar year.

Issued in Arlington, Virginia, on March 21, 2013.

Susan L. Perkins,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2013–07047 Filed 3–26–13; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of SGS North America, Inc., as a Commercial Gauger and Laboratory

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

ACTION: Notice of accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that SGS North America, Inc., has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes for the next three years as of August 1, 2012.

DATES: *Effective Dates:* The accreditation and approval of SGS North America, Inc., as commercial gauger and laboratory became effective on August 1, 2012. The next triennial inspection date will be scheduled for August 2015.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that SGS North America, Inc., 925 Corn Product Road, Corpus Christi, TX 78409, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.*http://cbp.gov/linkhandler/cgov/trade/basic_trade/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf.*

Dated: March 19, 2013.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2013–07094 Filed 3–26–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

United States Immigration and Customs Enforcement

Agency Information Collection Activities: Extension, Without Change, of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection for Review; File No. 70–009, 287(g) Candidate Questionnaire; OMB Control No. 1653–0047.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (USICE), will submit the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until May 28, 2013.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), Scott Elmore, Forms Manager, U.S. Immigration and Customs Enforcement, 801 I Street NW., Mailstop 5800, Washington, DC 20536; (202) 732–2601.

Comments are encouraged and will be accepted for sixty days until May 28, 2013. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information 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:* Extension of a Currently Approved Collection.

(2) *Title of the Form/Collection:* 287(g) Candidate Questionnaire.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* 70–009, U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local or Tribal governments. This questionnaire is used for the purposes of determining whether or not a state or local law enforcement officer will be granted Federal immigration enforcement authority under the 287(g) program. This information is used by program managers and trainers in the 287(g) program to make a decision for a potential candidate to be admitted into the program.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 75 responses at 25 minutes (0.416 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 31.2 annual burden hours.

Comments and/or questions; request for a copy of the proposed information collection instrument, with instructions; or inquiries for additional information should be directed to Scott Elmore, Forms Management, U.S. Immigration and Customs Enforcement, 801 I Street NW., Stop 5800, Washington, DC 20536; (202) 732–2601.

Dated: March 22, 2013.

Scott Elmore,

Forms Management, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2013–07036 Filed 3–26–13; 8:45 am]

BILLING CODE 91111–28–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5687–N–14]

Notice of Proposed Information Collection; Comment Request: Submission Requirements for the Section 202 Supportive Housing for the Elderly and the Section 811 Supportive Housing for Persons With Disabilities Capital Advance Program

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, 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 28, 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., Washington, DC 20410, Room 9120 or the number for the Federal Relay Service (1–800–877–8339).

FOR FURTHER INFORMATION CONTACT: Aretha Williams, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–3000 (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: Capital Advance Program Submission Requirements for Firm Commitment through Final Closing. Section 202 Supportive Housing for the Elderly and Section 811 Supportive Housing for Persons with Disabilities.

OMB Control Number, if applicable: 2502–0470.

Description of the need for the information and proposed use: This submission, for which the Department is requesting clearance, is to permit the continued processing of all Sections 202 and 811 capital advance projects that have not yet been finally closed. The submission includes processing of the application for firm commitment to final closing of the capital advance. It is needed to assist HUD in determining the Owner's eligibility and capacity to finalize the development of a housing project under the Section 202 and Section 811 Capital Advance Programs. A thorough evaluation of an Owner's capabilities is critical to protect the Government's financial interest and to mitigate any possibility of fraud, waste and mismanagement of public funds.

Agency form numbers, if applicable: HUD–2328; 2530; 2554; 2880; 935.2; 9832; 9839–A; 9839–B; 9839–C; 51994; 90163–CA; 90163.1–CA; 90164–CA; 90165–CA; 90167–CA; 90169–CA; 90169.a–CA; 90170–CA; 90171–CA; 90172–A–CA; 90172–B–CA; 90173–A–CA; 90173–B–CA; 90173–C–CA; 90175–CA; 90175.1–CA; 90176–CA; 90177–CA; 90178–CA; 91732–A–CA; 92013; 92013–SUPP; 92264; 92330; 92330–A; 92329; 92331; 92403.1; 92403–CA; 92408–M; 92433–CA; 92434–CA; 92435–CA; 92437; 92442; 92442–A–CA; 92443–CA; 92448; 92450–CA; 92452–A; 92452–A–CA; 92457; 92458; 92464; 92466–CA; 92466.1–CA; 92476–A; 92476–A–CA; 92485; 92580; 93432–CA; 93479; 93480; 93481; 93566–CA; 93566.1–CA; 27054; 50080–CAH, SF–269; SF–1199; SF–LL; and FM–1006.

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 8,348. The number of respondents is 195, the number of responses is 7,809, the frequency of response is on occasion, and the burden hour per response is 60.

Status of the proposed information collection: Extension of currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: March 21, 2013.

Laura M. Marin,

Acting General Assistant Secretary for Housing—Acting General Deputy Federal Housing Commissioner.

[FR Doc. 2013–07069 Filed 3–26–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5687–N–13]

Notice of Proposed Information Collection; Comment Request: Monthly Report of Excess Income and Annual Report of Uses of Excess Income

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 28, 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 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.

Harry Messner, Project Manager, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 402–2626 (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: Monthly Report of Excess Income and Annual Report of Uses of Excess Income.

OMB Control Number, if applicable: 2502–0086.

Description of the need for the information and proposed use: Project owners are permitted to retain Excess Income for projects under terms and conditions established by HUD. Owners must submit a written request to retain some or all of their Excess Income. The request must be submitted at least 90 days before the beginning of each fiscal year, or 90 days before any other time during a fiscal year that the owner plans to begin retaining excess income for that fiscal year. HUD uses the information to ensure that required excess rents are remitted to the Department and/or retained by the owner for project use.

Agency form numbers, if applicable: Web form e–93104 Monthly Report of Excess Income.

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 5,585. The number of respondents is 834, the number of responses is 19,361, the frequency of response is monthly, and the burden hour per response is three-quarters of an hour for the annual report of uses of excess income, and one-quarter hour for the monthly report of excess income.

Status of the proposed information collection: This is an extension of a previous clearance.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: March 21, 2013.

Laura M. Marin,

Acting General Assistant Secretary for Housing-Acting General Deputy Federal Housing Commissioner.

[FR Doc. 2013–07068 Filed 3–26–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5683–N–26]

Notice of Submission of Proposed Information Collection to OMB; Requisition for Disbursement of Sections 202 & 811 Capital Advance/ Loan Funds

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 collection is used by Owner entities and submitted to HUD on a periodic basis (generally monthly) during the course of construction for the purpose of obtaining Section 202/811 capital advance/loan funds. The information will also be used to identify the Owner, the project, the type of disbursement being requested, the items to be covered by the disbursement, and the name of the depository holding the Owner's bank account, including the account number.

DATES: *Comments Due Date:* April 26, 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 (2502–0187) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov* fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh

Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposed: Requisition for Disbursement of Sections 202 & 811 Capital Advance/Loan Funds.

OMB Approval Number: 2502–0187.

Form Numbers: HUD–92403–CA and HUD–92403–EH.

Description of the need for the information and proposed use:

This information collection is used by Owner entities and submitted to HUD on a periodic basis (generally monthly) during the course of construction for the purpose of obtaining Section 202/811 capital advance/loan funds. The information will also be used to identify the Owner, the project, the type of disbursement being requested, the items to be covered by the disbursement, and the name of the depository holding the Owner's bank account, including the account number.

	Number of respondents	Annual responses	×	Hours per response	Burden hours
Reporting Burden	258	0.5		2	258

Total Estimated Burden Hours: 258.

Status: Extension without change of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 20, 2013.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2013–06915 Filed 3–26–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Proposed Renewal of Information Collection: Trust Funds for Tribes and Individual Indians

AGENCY: Office of the Special Trustee for American Indians, Office of the Secretary, Interior.

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Special Trustee for American Indians announced the proposed extension of a public information collection, ''Trust Funds for Tribes and Individual Indians, 25 CFR 115,'' OMB Control No. 1035–0004, and that it is seeking comments on its provisions.

DATES: Consideration will be given to all comments received by May 28, 2013.

ADDRESSES: Send your written comments to Helen Riggs, Office of the Special Trustee for American Indians, 4400 Masthead Street NE., Albuquerque, NM 87109 or email them to: *helen_riggs@ost.doi.gov.* Individuals providing comments should reference ''Trust Funds for Tribes and Individual Indians, 25 CFR 115,'' OMB Control No. 1035–0004.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, any explanatory information and related forms, contact Helen Riggs at telephone number 505–816–1131, or send email to *helen_riggs@ost.doi.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This notice is for renewal of information collection.

The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)).

The American Indian Trust Fund Management Reform Act of 1994 (the Reform Act) makes provisions for the Office of the Special Trustee for American Indians to administer trust fund accounts for individuals and tribes. The collection of information is required to facilitate the processing of deposits, investments, and distribution of monies held in trust by the U.S. Government and administered by the Office of the Special Trustee for American Indians. The collection of information provides the information needed to establish procedures to: deposit and retrieve funds from accounts, perform transactions such as cashing checks, reporting lost or stolen checks, stopping payment of checks, and general verification for account activities.

The Office of Special Trustee for American Indians has revised the application form to include a section to provide the applicant's email address and for the applicant to select method of payment.

II. Data

(1) *Title:* Trust Funds for Tribes and Individuals Indians, 25 CFR 115.

OMB Control Number: 1035–0004.

Current Expiration Date: July 31, 2013.

Type of Review: Information Collection Renewal.

Affected Entities: Individual Indians and Tribes who wish to initiate some activity on their accounts.

Estimated annual number of respondents: 135,662.

Frequency of responses: As needed, estimated 4 per year.

(2) *Annual reporting and recordkeeping burden:*

Total annual reporting per response: 15 minutes.

Total number of estimated responses: 542,646.

Total annual reporting: 135,662 hours.

(3) *Description of the need and use of the information:* This information collection is used to process deposits, investments, and distribution of monies held in trust by the Special Trustee for

individual Indians in the administration of these accounts. The respondents submit information in order to gain or retain a benefit, namely, access to funds held in trust.

III. Request for Comments

The Department invites comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agencies, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information and the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on respondents, including the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

''Burden'' means the total time, effort, and financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install, and use technology and systems for the purposes 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, and to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments, with names and addresses, will be available for public inspection. If you wish us to withhold your personal information, you must prominently state at the beginning of your comment what personal information you want us to withhold. We will honor your request to the extent allowable by law. If you wish to view any comments received, you may do so by scheduling an appointment with the point of contact given in the **ADDRESSES** section. A valid picture identification is required for entry into the Department of the Interior.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

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

Dated: March 15, 2013.

Jim James,

Deputy Special Trustee—Field Operations, Office of the Special Trustee for American Indians.

[FR Doc. 2013–06970 Filed 3–26–13; 8:45 am]

BILLING CODE 4310–2W–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[Docket No. ONRR–2012–0003]

U.S. Extractive Industries Transparency Initiative Multi-Stakeholder Group (USEITI MSG) Advisory Committee

AGENCY: Policy, Management and Budget, Interior.

ACTION: Meetings.

SUMMARY: This notice announces the April 11, 2013, teleconference and the May 1–2, 2013, meeting of the United States Extractive Industries Transparency Initiative (USEITI) Multi-Stakeholder Group (MSG) Advisory Committee. Agenda items for the April 11, 2013, teleconference will include: Final review and approval of the Terms of Reference, nomination and approval of co-chairs, approval of the first MSG meeting minutes, a progress report from the subcommittee, and public comments. The agenda for the May 1–2, 2013, meeting will include an overview and discussion of components needed for the draft USEITI candidacy application and other committee business, as needed. Final agendas and materials for both the teleconference and the meeting will be posted on the USEITI MSG Web site at *www.doi.gov/eiti/faca*.

DATES: Teleconference April 11, 2013, from 1:30 a.m. to 3:30 p.m. Eastern Time. Meeting May 1–2, 2013, from 9:30 a.m. to 5:00 p.m. Eastern Time.

ADDRESSES: Members of the public may listen to the April 11, 2013, teleconference meeting by dialing into a moderated conference line at 888–455–9744 and can observe the meeting proceedings online at *http://bit.ly/16LMALk*. The May 1–2, 2013, meeting will be held at the Main Interior Building, Room 7000A–7000B, 1849 C Street NW., Washington, DC, and public observers may listen to the proceedings at telephone number 866–707–0640 (Passcode: 1500538).

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Conway, Office of Natural Resources Revenue, Office of the Assistant Secretary—Policy, Management and Budget; 1849 C Street NW., MS 4211, Washington, DC 20240. You may also contact Ms. Conway via email at *Shirley.Conway@onrr.gov,* by phone at 202–513–0598, or by fax at 202–513–0682.

SUPPLEMENTARY INFORMATION: The meetings are open to the public. Whenever possible, we encourage those participating by telephone to gather in conference rooms in order to share teleconference lines. Please plan to dial into the meeting at least 10–15 minutes prior to the scheduled start time in order to avoid possible technical difficulties. Individuals with special needs will be accommodated whenever possible. If you require special assistance (such as an interpreter for the hearing impaired), please notify Ms. Shirley Conway in advance of the meeting at 202–513–0598 or via email at *Shirley.Conway@onrr.gov.* Anyone wishing to provide comments during the public comment period must submit written statements to *useiti@doi.gov* by April 5, 2013, for the April 11, 2013, meeting and by April 25, 2013 for the May 1–2, 2013, meeting. In addition, individuals or groups wishing to make comments may do so for up to two minutes each, as time permits.

The minutes from these proceedings will be posted on our Internet site at *http://www.doi.gov/eiti/faca* and will also be available for public inspection and copying at our office in the Main Interior Building in Washington, DC, by contacting Shirley Conway via email at *Shirley.Conway@onrr.gov* or by telephone at 202–513–0598. For more information on USEITI, visit *http://www.doi.gov/eiti* or the international EITI Web site at *www.eiti.org*.

Dated: March 22, 2013.

Amy Holley,

Chief of Staff—Policy, Management and Budget.

[FR Doc. 2013–07064 Filed 3–26–13; 8:45 am]

BILLING CODE 4310–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–030–13–1610–PH–241A]

Call for Nominations for the Grand Staircase-Escalante National Monument Advisory Committee, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to request public nominations for five members of the Grand Staircase-Escalante National Monument (GSENM) Monument Advisory Committee (MAC). The MAC provides advice and recommendations to GSENM management on science issues and the achievement of GSENM Management Plan objectives. GSENM will accept public nominations until April 26, 2013.

DATES: A completed nomination form and accompanying nomination/recommendation letters must be received at the address listed below no later than April 26, 2013.

ADDRESSES: Grand Staircase-Escalante National Monument Headquarters Office, 669 South Highway 89A, Kanab, UT 84741.

FOR FURTHER INFORMATION CONTACT: Larry Crutchfield, Public Affairs Officer, GSENM Headquarters Office, 669 South Highway 89A, Kanab, UT 84741; phone 435–644–1209 or email: *lcrutchf@blm.gov.*

SUPPLEMENTARY INFORMATION: The Secretary of the Interior established the GSENM MAC pursuant to section 309 of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1739) and in conformity with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C. Appendix 2). The 15 appointed members of the MAC perform several primary tasks: (1) Review evaluation reports produced by the Management Science Team and make recommendations on protocols and projects to meet overall objectives; (2) Review appropriate research proposals and make recommendations on project necessity and validity; (3) Make recommendations regarding allocation of research funds through review of research and project proposals as well as needs identified through the evaluation process above; and (4) Provide advice on issues such as protocols for specific projects.

The Secretary appoints persons to the MAC who are representatives of the various major citizen interests pertaining to land use planning and management of the lands under the BLM management in GSENM.

Each MAC member will be a person who, as a result of training and experience, has knowledge or special expertise that qualifies him or her to provide advice from among the categories of interests listed below. As appropriate, certain committee members may be appointed as Special Government Employees. Special Government Employees serve on the MAC without compensation, and are subject to financial disclosure requirements in the Ethics in Government Act and 5 CFR 2634.

This notice, published pursuant to 43 CFR 1784.4–1 and in accordance with the Approved Management Plan for Grand Staircase-Escalante National Monument (February 2000), requests the public to submit nominations to fill five positions on the MAC. Individuals may nominate themselves or others. Nomination forms may be obtained from the GSENM Headquarters Office (address listed above). To make a nomination, submit a letter of nomination, a completed nomination form, letters of reference from the represented interests or organizations associated with the interest represented by the candidate, and any other information that speaks to the candidate's qualifications. The Obama Administration prohibits individuals who are currently federally registered lobbyists from being appointed or re-appointed to FACA and non-FACA boards, committees, or councils.

Three new MAC members, one for each category, will be appointed for the following categories:

- An educator, to represent the educational community;
- A representative of the environmental community; and
- An outfitter and guide operating within the GSENM, to represent commercial users.

Two new MAC members, one for each category, will be appointed as Special Government Employees for the following areas of expertise:

- Social science.
- Wildlife biology.

The specific category the nominee would represent should be identified in the letter of nomination and in the nomination form. The BLM-Utah State Director and Monument Manager will review the nomination forms and letters of reference. The State Director shall confer with the Governor of the State of Utah on potential nominations. The BLM State Director will then forward recommended nominations to the Secretary of the Interior who has responsibility for making the appointments.

Members will serve without monetary compensation but will be reimbursed for travel and per diem expenses at current rates for government employees. The MAC meets at least twice a year. Additional meetings may be called by the Designated Federal Officer.

Approved:

Jenna Whitlock.

Associate State Director.

[FR Doc. 2013–07043 Filed 3–26–13; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAD00000 L19900000.AL0000]

Call for Nominations for the California Desert District Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management's (BLM) California Desert District is soliciting nominations from the public for five members to serve 3-year terms on its Desert District Advisory Council. Council members provide advice and recommendations to the BLM on the management of public lands in Southern California.

DATES: Nominations will be accepted until May 13, 2013.

ADDRESSES: Nominations should be sent to Teresa Raml, District Manager, Bureau of Land Management, California Desert District Office, 22835 Calle San Juan De Los Lagos, Moreno Valley, CA 92553.

FOR FURTHER INFORMATION CONTACT: David Briery, BLM California Desert District External Affairs, 951–697–5220.

SUPPLEMENTARY INFORMATION: The California Desert District Advisory Council is comprised of 15 private individuals who represent different interests and advise BLM officials on policies and programs concerning the management of 10.8 million acres of public land in Southern California. The Council meets in formal session three to four times each year in various locations throughout the California Desert District. Council members serve without compensation other than travel expenses. Members serve 3-year terms and may be nominated for reappointment for an additional 3-year term.

Section 309 of the Federal Land Policy and Management Act directs the Secretary of the Interior to involve the public in planning and issues related to management of BLM-administered lands. The Secretary also selects Council nominees consistent with the requirements of the Federal Advisory Committee Act (FACA), which requires nominees appointed to the Council be balanced in terms of points of view and representative of the various interests concerned with the management of the public lands. The Council also is balanced geographically and the BLM will try to find qualified representatives from areas throughout the California Desert District. The District covers portions of eight counties, and includes

more than 10.8 million acres of public land in the California Desert Conservation Area of Mono, Inyo, Kern, Los Angeles, San Bernardino, Riverside, and Imperial counties, as well as 300,000 acres of scattered parcels in San Diego, western Riverside, western San Bernardino, and Los Angeles Counties (known as the South Coast).

The five positions to be filled include one elected official, one representative of renewable resources groups or organizations, and three representatives of the public-at-large. Two positions are immediate vacancies (elected official and one public-at-large) and their 3-year terms would begin immediately upon appointment by the Secretary of the Interior. The other three positions (renewable resources and two public-at-large) become vacant on Dec. 10, 2013.

Any group or individual may nominate a qualified person, based upon education, training, and knowledge of the BLM, the California Desert, and the issues involving BLM-administered public lands throughout Southern California. Qualified individuals also may nominate themselves.

The nomination form may be found on the Desert Advisory Council Web page: *http://www.blm.gov/ca/st/en/info/rac/dac.html.* The following must accompany the nomination form for all nominations:

- Letters of reference from represented interests or organizations;
- A completed background information nomination form; and
- Any other information that addresses the nominee's qualifications.

Nominees unable to download the nomination form may contact the BLM California Desert District External Affairs staff at 951–697–5220 to request a copy. Advisory Council members are appointed by the Secretary of the Interior. The Obama Administration prohibits individuals who are currently federally registered lobbyists to serve on all FACA and non-FACA boards, committees or councils.

Timothy J. Wakefield,

Associate California Desert District Manager.

[FR Doc. 2013–07025 Filed 3–26–13; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCA930000 L192000000 ET0000.LROBRX1210500; CACA 044081]

Notice of Proposed Expansion, Extension, and Notification of a Public Meeting for the Chocolate Mountain Aerial Gunnery Range Withdrawal; CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to section 808 of the California Military Lands Withdrawal and Overflight Act of 1994 (Act), the Department of the Navy (DoN), on behalf of the U.S. Marines, has filed an application to modify and extend the current legislative withdrawal of public lands from all forms of appropriation under the public land laws, including the mining laws, the mineral leasing laws, and the geothermal leasing laws, for military use of the Chocolate Mountain Aerial Gunnery Range (CMAGR) in Imperial and Riverside Counties, California. The lands are currently withdrawn under the Act, which is a part of the California Desert Protection Act, which reserves these lands for defense-related purposes for a period of 20 years. Unless Congress extends the withdrawal, it will expire on October 30, 2014. The extension application includes a request that additional Federal lands be withdrawn in aid of a proposed legislative adjustment to the boundary for the purpose of improving management. This notice gives an opportunity for the public to comment on the proposed withdrawal expansion and extension and announces the date, time, and location of a public meeting.

DATES: Comments must be received on or before June 25, 2013. The BLM will hold a public meeting in connection with the proposed withdrawal extension on April 25, 2013. For the time and location, please see **SUPPLEMENTARY INFORMATION** below.

ADDRESSES: Comments should be sent to Cynthia Staszak, Assistant Deputy State Director, Natural Resources (CA–930), California Bureau of Land Management, 2800 Cottage Way, Suite 1834, Sacramento, CA 95825–1886.

FOR FURTHER INFORMATION CONTACT: Elizabeth Easley, Realty Specialist, 916–978–4673. 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. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Act provides that the DoN may seek an extension of the CMAGR withdrawal and requires the Secretary of the Navy both to submit an application to extend the withdrawal to the Secretary of the Interior for processing in accordance with the Bureau of Land Management's (BLM) regulations pertaining to withdrawals, and to publish a Draft Legislative Environmental Impact Statement (EIS) addressing legislative alternatives and the effects of continued withdrawal. The CMAGR Draft Legislative EIS, published on August 31, 2012, is available at *www.chocolatemountainrenewal.com.* The Department of the Navy's Notice of Availability can be found at 77 FR 53189. The Draft Legislative EIS evaluates the environmental effects of extending the withdrawal for an additional 25 years, as well as expanding the area withdrawn in order to facilitate restructuring the existing range boundary to improve efficiency in the management of the CMAGR and adjacent lands, safeguard public use of adjacent public lands, and consolidate the lands for more efficient environmental stewardship. As a result of the proposed boundary restructuring, Federal and non-Federal lands may be added to the existing withdrawal.

This notice temporarily segregates the additional 24,700 acres Federal lands from all forms of appropriation under the public land laws, including the United States mining laws, and from the operation of the mineral and geothermal leasing laws, and the Mineral Materials Act of 1947, for up to 2 years while the legislative withdrawal application is being processed. Approximately 24,700 acres of Federal lands may be added to the existing 225,100 acre withdrawal. This notice also invites the public to comment on the proposed extension and expansion of the CMAGR withdrawal, and initiates a 90-day comment period on the withdrawal extension/expansion application. The lands involved in the application are:

Federal Lands Currently Withdrawn

San Bernardino Meridian

T. 13 S., R. 18 E.,
Secs. 1 to 6, inclusive, unsurveyed;
Sec. 8, E½, unsurveyed;
Secs. 9, 10, and 11, unsurveyed.
T. 12 S., R. 16 E.,
Secs. 2 and 12.
T. 12 S., R. 17 E.,
Secs. 2, 4, 6, 8, 10, 12, 13, and 14;
Sec. 15, S½;

Sec. 17, S½;
Secs. 18, 20 to 28, inclusive, and 35.
T. 12 S., R. 18 E.,
Secs. 2, 4, 6, 8, and 10;
Secs. 12 to 15, inclusive;
Secs. 17 to 35, inclusive.
T. 12 S., R. 19 E.,
Secs. 2, 4, 6, 8, and 10;
Sec. 15, S½;
Sec. 17, S½;
Secs. 18 to 22, inclusive, and 27 to 34, inclusive.
T. 11 S., R. 15 E.,
Secs. 2 and 12.
T. 11 S., R. 16 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, and 34.
T. 11 S., R. 17 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.
T. 11 S., R. 18 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.
T. 11 S., R. 19 E.,
Secs. 4, 6, 8, 10, 14, 18, 20, 22, 26, 28, 30, 32, and 34.
T. 10 S., R. 14 E.,
Secs. 2 and 4;
Sec. 6, lots 3, 4, 5, 9, 10, and 11; those portions lying northeasterly of the most easterly line of the Coachella Branch of the All American Canal;
Sec. 8, N½NE¼ and SE¼NE¼; those portions lying northeasterly of the most easterly line of the Coachella Branch of the All American Canal;
Sec. 10, that portion lying northeasterly of the most easterly line of the Coachella Branch of the All American Canal;
Secs. 12 and 14;
Sec. 22, N½NE¼ and SE¼NE¼;
Sec. 24.
T. 10 S., R. 15 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, and 34.
T. 10 S., R. 16 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, and 24;
Sec. 25, S½SW¼ and SW¼SE¼;
Secs. 26, 28, 30, 32, and 34.
T. 10 S., R. 17 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.
T. 10 S., R. 18 E.,
Secs. 6, 8, 18, 20, 22, 26, 28, 30, 32, and 34.
T. 10 S., R. 19 E.,
Sec. 32.
T. 9 S., R. 13 E.,
Secs. 2, 4, 6, 8, 10, 12, and 14;
Sec. 18, N½NE¼, SE¼NE¼, those portions lying northeasterly of the most easterly line of the Coachella Branch of the All American Canal;
Sec. 20, N½NE¼, that portion lying northeasterly of the most easterly line of the Coachella Branch of the All American Canal;
Sec. 22, N½, SE¼ and N½ SW¼, those portions lying northeasterly of the most easterly line of the Coachella Branch of the All American Canal;
Sec. 24;
Sec. 26, NE¼, N½NW¼, SE¼NW¼ and N½SE¼, those portions lying northeasterly of the most easterly line of the Coachella Branch of the All American Canal.
T. 9 S., R. 14 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.
T. 9 S., R. 15 E.,
Secs. 2, 4, and 6;
Sec. 5, N½ lot 5, SE¼SW¼ lot 7, N½NW¼ lot 7, and N½NW¼ lot 9;
Secs. 8 and 10;
Sec. 11, N½SE¼ and S½NE¼SW¼;
Secs. 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.
T. 9 S., R. 16 E.,
Secs. 2, 4, 6, 8, and 10;
Sec. 12, NW ¼, that portion lying northerly of the northerly line of the Niland Blythe Road;
Sec. 14, SW¼NE¼, NW¼, and S½;
Secs. 18, 20, 22, 24, 26, 28, 30, 32, and 34.
T. 9 S., R. 17 E.,
Sec. 6, lots 1 and 2 of the NW¼, those portions lying westerly of the westerly line of the unnamed road running southwesterly from the Bradshaw Trail to Niland Blythe Road;
Sec. 26;
Sec. 28, NE¼NE¼, S½NE¼, and S½;
Secs. 30, 32, and 34.
T. 8 S., R. 12 E.,
Sec. 2 and 4, those portions lying southerly of the southerly line of the Bradshaw Trail;
Sec. 6, E½E½, that portion lying northeasterly of the most easterly line of the Coachella Branch of the All American Canal and southerly of the southerly line of the Bradshaw Trail;
Sec. 8, that portion lying northeasterly of the most easterly line of the Coachella Branch of the All American Canal;
Secs. 10, 12, and 14;
Sec. 22, that portion lying northeasterly of the most easterly line of the Coachella Branch of the All American Canal;
Sec. 24;
Sec. 26, lots 1, 2, 3 and 4, W½E½, NW¼, N½SW¼, those portions lying northeasterly of the most easterly line of the Coachella Branch of the All American Canal.
T. 8 S., R. 13 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.
T. 8 S., R. 14 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.
T. 8 S., R. 15 E.,
Sec. 2, that portion lying southerly of the southerly line of the Bradshaw Trail;
Secs. 4, 6, 8, and 10;
Sec. 11, N½NE¼SE¼NE¼, NW¼SE¼NE¼, S½NE¼NE¼, NW¼, and E½NE¼SW¼;
Sec. 12, that portion lying southerly of the southerly line of the Bradshaw Trail;
Secs. 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.
T. 8 S., R. 16 E.,
Sec. 8, unsurveyed SW¼NE¼, S½NW¼, and S½, those portions lying southerly of the southerly line of the Bradshaw Trail;
Sec. 14, unsurveyed SW¼SW¼, that portion lying southwesterly of the southerly line of the Bradshaw Trail;
Secs. 18, 20, and 22;
Sec. 24, unsurveyed SW¼SW¼, that portion lying southerly of the southerly line of the Bradshaw Trail;
Secs. 26, 28, 30, 32, and 34.
T. 8 S., R. 17 E.,
Sec. 32, SW¼, that portion lying southerly of the southerly line of the Bradshaw Trail and westerly of the westerly line of the unnamed road running southwesterly from the Bradshaw Trail to Niland Blythe Road.
T. 7 S., R. 12 E.,
Sec. 34, SE¼SE¼, that portion lying southeasterly of the southerly line of the Bradshaw Trail.
T. 7 S., R. 13 E.,
Sec. 22, NE¼ and S½, those portions lying southeasterly of the southerly line of the Bradshaw Trail;
Secs. 24 and 26;
Sec. 28, that portion lying southerly of the southerly line of the Bradshaw Trail;
Sec. 32, that portion lying southeasterly of the southerly line of the Bradshaw Trail;
Sec. 34.
T. 7 S., R. 14 E.,
Sec. 20, SW¼SW¼, that portion lying southerly of the southerly line of the Bradshaw Trail;
Sec. 26, S½, that portion lying southerly of the southerly line of the Bradshaw Trail;
Sec. 28, S½, that portion lying southerly of the southerly line of the Bradshaw Trail;
Secs. 30, 32, and 34.
T. 7 S., R. 15 E.,
Sec. 30, lot 4, SE¼SW¼, and S½SE¼, those portions lying southerly of the southerly line of the Bradshaw Trail;
Sec. 31, N½SE¼NW¼, N½SW¼SE¼NW¼, NW¼SE¼SE¼NW¼, W½NE¼SE¼SE¼NW¼, S½NE¼SW¼NW¼, SW¼SW¼NW¼, and N½NW¼NE¼SW¼;
Sec. 32, that portion lying southerly of the southerly line of the Bradshaw Trail;
Sec. 33, N½SE¼, N½SW¼NW¼SW¼NW¼, and SW¼SW¼NW¼SW¼NW¼, those portions lying southerly of the southerly line of the Bradshaw Trail;
Sec. 34, W½SW¼ and SE¼SW¼, those portions lying southerly of the southerly line of the Bradshaw Trail.

The current withdrawn lands to be extended aggregate 225,100 acres, more or less, in Riverside and Imperial Counties.

The following described Federal lands are being incorporated into the exterior boundaries of the CMAGR:

New Federal Lands Proposed for Withdrawal, and Segregated by this Notice

San Bernardino Meridian

T. 13 S., R. 17 E.,
Secs. 1 and 2, those portions lying northeasterly of the northerly right-of-way of Union Pacific Railroad.
T. 13 S., R. 17½ E.,
Secs. 1, 2, 3, 11, and 12, unsurveyed, those portions lying northeasterly of the northerly right-of-way of Union Pacific Railroad.
T. 13 S., R. 18 E.,
Sec. 7, unsurveyed;

Sec. 8, unsurveyed, W½;
Sec. 15, unsurveyed, that portion lying westerly of the westerly line of the westerly branch and the primary trail Sway of Bureau of Land Management Road 607;
Sec. 17 unsurveyed;
Secs. 18, 19, and 20, unsurveyed, those portions lying northeasterly of the northerly right-of-way of Union Pacific Railroad;
Sec. 21, unsurveyed;
Sec. 22, unsurveyed, that portion lying westerly of the westerly line of Bureau of Land Management Roads 606 and 607;
Sec. 27, unsurveyed, that portion lying westerly of the westerly line of Bureau of Land Management Road 606 and northeasterly of the northerly right-of-way of the Mesquite Railroad Spur;
Sec. 28, unsurveyed, that portion lying northerly of the northerly right-of-way of Union Pacific Railroad and northeasterly of the northerly right-of-way of the Mesquite Railroad Spur;
Sec. 29, unsurveyed, that portion lying northeasterly of the northerly right-of-way of Union Pacific Railroad.

T. 12 S., R. 16 E.,
Sec. 11, that portion lying southeasterly of the south line of the unimproved unnamed range road;
Sec. 13, that portion lying northeasterly of the northerly right-of-way of Union Pacific Railroad;
Sec. 14, that portion lying southeasterly of the intersection of the south line of the unimproved unnamed range road and Ted Kipf Road and also lying northeasterly of the northerly right-of-way of Union Pacific Railroad;
Sec. 24, that portion lying northeasterly of the northerly right-of-way of Union Pacific Railroad.

T. 12 S., R. 17 E.,
Secs. 19, 29, 30, 32, 33, and 34, those portions lying northeasterly of the northerly right-of-way of Union Pacific Railroad.

T. 10 S., R. 14 E.,
Sec. 26, that portion lying northeasterly of the most easterly line of the Coachella Branch of the All American Canal.

T. 8 S., R. 16 E.,
Sec. 9, S½, unsurveyed, that portion lying southerly of southerly line of the Bradshaw Trail.

T. 7 S., R. 12 E.,
Sec. 34, SW¼ and SW¼SE¼, those portions lying southerly of the southerly line of the Bradshaw Trail;
Sec. 35, SW¼, that portion lying southerly of the southerly line of the Bradshaw Trail;
Sec. 36, N½SW¼, that portion lying between the southerly line of the Bradshaw Trail and northerly of the south bank of Salt Creek.

T. 7 S., R. 13 E.,
Sec. 13, NE¼SW¼, NW¼SW¼, NW¼SE¼, and SE¼SE¼, those portions lying southerly of the southerly line of the Bradshaw Trail;
Sec. 14, that portion lying southeasterly of the southerly line of the Bradshaw Trail;
Sec. 22, S½NW¼, that portion lying southeasterly of the southerly line of the Bradshaw Trail;
Sec. 31, NE¼, that portion lying southerly of the southerly line of the Bradshaw Trail and northerly of the south bank of the Salt Creek excepting therefrom that portion acquired by Civil 2054–Y.

T. 7 S., R. 14 E.,
Sec. 18, lots 3 and 4, E½SW¼, and SE¼, those portions lying southerly of the southerly line of the Bradshaw Trail;
Sec. 19, NE¼NE¼, E½E½SE¼NE¼, and E½E½NE¼SE¼, those portions lying southwesterly of the southerly line of the Bradshaw Trail;
Sec. 20, SW¼NW¼, NW¼SW¼, and SE¼SW¼, those portions lying southwesterly of the southerly line of the Bradshaw Trail.

T. 7 S., R. 15 E.,
Sec. 30, lot 3, that portion lying southerly of the south line of the Bradshaw Trail.

The Federal lands to be added to the existing withdrawal aggregate 24,700 acres, more or less, in Riverside and Imperial Counties.

The following described non-Federal lands are within the exterior boundaries of the CMAGR. If title to these non-Federal lands is subsequently acquired by the United States, the lands may be subject to the terms and conditions of an expanded and renewed withdrawal.

Non-Federal Lands That May Be Acquired in the Future

San Bernardino Meridian

T. 13 S., R. 18 E.,
Sec. 16.

T. 7 S., R. 12 E.,
Sec. 36, S½SW¼, that portion lying between the southerly line of the Bradshaw Trail and northerly of the south bank of Salt Creek excepting therefrom that portion of lands acquired by Civil 2054–Y.

T. 7 S., R. 13 E.,
Sec. 13, SW¼SW¼, and those portions of SE¼SW¼, SW¼SE¼, NE¼SE¼, and SW¼NW¼ lying southerly of the southerly line of the Bradshaw Trail;
Sec. 21, NE¼SE¼ and W½SW¼SE¼, those portions lying southerly of the southerly line of the Bradshaw Trail;
Sec. 23, N½N½NE¼, and those portions of N½N½NW¼ lying southerly of the southerly line of the Bradshaw Trail;
Sec. 29, that portion lying southerly and southeasterly of the southerly line of the Bradshaw Trail excepting therefrom SE¼SE¼.

T. 7 S., R. 14 E.,
Sec. 29, N½NW¼NE¼, that portion lying southerly of the southerly line of the Bradshaw Trail.

The non-Federal lands to be acquired aggregate 1,700 acres, more or less, in Riverside and Imperial Counties.

The total areas described contain approximately 249,800 acres of Federal lands and 1,700 acres of non-Federal lands in Riverside and Imperial Counties.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

The purpose of the proposed withdrawal extension would be to continue to protect and preserve the status quo of the lands pending action on an application for withdrawal for military purposes under the Engle Act (43 U.S.C. 155–158).

On or before June 25, 2013, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the BLM, Associate Deputy State Director, at the address indicated above.

Comments, including names and street addresses for respondents, will be available for public review at the BLM's California State Office, during regular business hours, 8:30 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be 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.

The BLM will hold a public meeting in connection with the proposed withdrawal extension on April 25, 2013, at the BLM's California Desert District Office, 22835 Calle San Juan de Los Largos, Moreno Valley, California, from 9 a.m. until 2 p.m. The BLM will publish a notice of the time and place in at least one local newspaper no less than 30 days before the scheduled meeting date.

For a period until March 27, 2015, the additional Federal lands of approximately 24,700 acres will be segregated from all forms of appropriation under the public land laws, including the United States mining laws, and from the operation of the mineral and geothermal leasing laws, and the Mineral Materials Act of 1947, unless the application is denied or canceled or the withdrawal is approved prior to that date.

Licenses, permits, cooperative agreement, or discretionary land use authorizations of a temporary nature which will not significantly impact the values to be protected by the withdrawal may be allowed with the approval of the authorized officer of the BLM during the temporary segregative period.

No water rights would be needed to fulfill the purpose of the requested withdrawal extension.

Records relating to the application may be examined at the California State Office at the address stated above.

Authority: 43 CFR 2310.3–1.

Cynthia Staszak,

Associate Deputy State Director, Natural Resources CA–930.

[FR Doc. 2013–07045 Filed 3–26–13; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On March 22, 2013, the Department of Justice lodged a proposed consent decree with the United States District Court for the Western District of Michigan in the lawsuit entitled *United States* v. *Lake Michigan Trans-Lake Shortcut, Inc.,* Civil Action No. 1:13–cv–317.

The United States filed the lawsuit under the Clean Water Act. The complaint seeks injunctive relief and civil penalties for violations in connection with the defendant's discharge of ash from BADGER, a coal-fired, stream-driven ferry that operates between Manitowoc, Wisconsin, and Ludington, Michigan. The consent decree requires the defendant to cease ash discharges after BADGER's 2014 operating system, perform other injunctive relief, and pay a $25,000 civil penalty.

The publication of this notice 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. *Lake Michigan Trans-Lake Shortcut, Inc.,* D.J. Ref. No. 90–5–1–1–10771. 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, you can examine and download the consent decree at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will send you a paper copy of the consent decree upon written request and payment of reproduction costs (25 cents per page). 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 $10.50 payable to the United States Treasury.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–07051 Filed 3–26–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Partial Consent Decree Under the Clean Water Act

On March 21, 2013, the Department of Justice lodged a proposed partial consent decree with the United States District Court for the District of Kansas in the lawsuit entitled *United States* v. *Unified Government of Wyandotte County and Kansas City, Kansas, et al.,* Civil Action No. 13–02141–EFM–KGG.

The United States filed this Clean Water Act lawsuit on behalf of the United States Environmental Protection Agency. The complaint seeks injunctive relief and civil penalties for violations of the Clean Water Act in connection with the Unified Government's sewer and storm water systems. The proposed Partial Consent Decree will require the Unified Government to implement improved operation and maintenance programs for the sewer system, perform initial work over the next four years to address sewer overflows, develop a proposed overflow control plan for the sewer system by September 2016, and implement an improved Storm Water Management Plan for the storm water system. The partial settlement will not resolve the United States' claims for civil penalties or injunctive relief.

The publication of this notice opens a period for public comment on the Partial Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Unified Government of Wyandotte County and Kansas City, Kansas, et al.,* D.J. Ref. No. 90–5–1–1–09463. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By e-mail ..	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Partial 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 Partial 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 $84.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $22.50.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–06981 Filed 3–26–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Work-Study Program of the Child Labor Regulations

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Wage and Hour Division (WHD) sponsored information collection request (ICR) titled, ''Work-Study Program of the Child Labor Regulations,'' 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 26, 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–WHD, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR relates to the school-supervised and school-administered Work-Study Program (WSP) of the Child Labor Regulations. This program allows for the employment of 14- and 15-year-olds under conditions Child Labor Regulation 3 otherwise prohibit. The information collection requirements include submitting a written request for the Administrator of the WHD to approve a WSP; preparing a written participation agreement that is signed by the teacher-coordinator, employer, and student and that the student's parent or guardian either signs or consents to; and school and employer records maintenance.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1235–0024. The current approval is scheduled to expire on May 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 December 13, 2013 (77 FR 74225).

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 1235–0024. 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–WHD.

Title of Collection: Work-Study Program of the Child Labor Regulations.

OMB Control Number: 1235–0024.

Affected Public: State, Local, and Tribal Governments and Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 1,530.

Total Estimated Number of Responses: 3,030.

Total Estimated Annual Burden Hours: 1,586.

Total Estimated Annual Other Costs Burden: $15.

Dated: March 20, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–06937 Filed 3–26–13; 8:45 am]

BILLING CODE 4510–27–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before April 26, 2013. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Management Services (ACNR) using one of the following means:

Mail: NARA (ACNR), 8601 Adelphi Road, College Park, MD 20740–6001.

Email: request.schedule@nara.gov.

FAX: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, Records Management Services (ACNR), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1799. Email: *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using

the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless specified otherwise. An item in a schedule is media neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1225.12(e).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Farm Service Agency (N1–145–12–1, 3 items, 3 temporary items). Support records relating to agency planning, risk management, and the American Recovery and Reinvestment Act.

2. Department of Defense, Defense Intelligence Agency (N1–373–12–02, 1 item, 1 temporary item). Records related to suitability and medical readiness of employees preparing for deployment.

3. Department of Defense, National Reconnaissance Office (N1–525–12–3, 4 items, 4 temporary items). Records include general and routine IT and communication information such as system certifications, communication security files, telephone use logs, and audit and inspection records.

4. Department of Defense, Office of the Secretary of Defense (N1–330–13–1, 1 item, 1 temporary item). Master files of an electronic information system used to maintain personnel contact and roster information for use in continuity of operations planning.

5. Department of Health and Human Services, Office of the Secretary (DAA–0468–2013–0001, 4 items, 4 temporary items). Plans, guidance, exercises, training documents, and briefings related to agency continuity of operations preparations.

6. Department of State, Bureau of Public Affairs (DAA–0059–2011–0007, 7 items, 7 temporary items). Records of the U.S. Diplomacy Center including office program files and educational outreach materials. Also included are master files of electronic information systems used to track artifacts.

7. Department of the Treasury, Internal Revenue Service (N1–58–12–4, 6 items, 4 temporary items). Forms, letters, and related background materials used to report income taxes. Proposed for permanent retention are tax forms, form letters, and control documentation.

8. Consumer Financial Protection Bureau, Agency-wide (N1–587–12–11, 1 item, 1 temporary item). Administrative records used to manage the agency.

9. Court Services and Offenders Supervision Agency, Re-Entry and Sanction Center (DAA–0562–2012–0004, 1 item, 1 temporary item). Clinical files used to document offenders' medical treatments.

10. Office of the Director of National Intelligence, Associate Director of National Intelligence for Human Capital and the Intelligence Community Chief Human Capital Officer (N1–576–11–3, 24 items, 17 temporary items). Records include background and reference materials, non-substantive drafts, routine briefings and speeches, staff level working groups, Web site records, training materials, and records typically covered by the General Records Schedules. Also included are the master files of an electronic information system used for human capital planning. Proposed for permanent retention are correspondence files, final reports, significant external briefings and speeches, program files, records of senior-level boards, and substantive working papers.

11. Office of the Director of National Intelligence, Intelligence Community Office of Equal Employment Opportunity and Diversity (N1–576–11–9, 12 items, 6 temporary items). Records include policy files, internal briefings and speeches, drafts, non-substantive working papers, reference files, and the internal Web site. Proposed for permanent retention are substantive working papers, external briefings and speeches, annual reports, congressional responses, and program and strategic planning files.

Dated: March 19, 2013.

Paul M. Wester, Jr.,

Chief Records Officer for the U.S. Government.

[FR Doc. 2013–07109 Filed 3–26–13; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL MEDIATION BOARD

Notice of Proposed Information Collection Requests

AGENCY: National Mediation Board.

SUMMARY: The Director, Office of Administration, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments within 60 days from the date of this publication.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Office of Administration, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection contains the following: (1) Type of review requested, e.g. new, revision extension, existing or reinstatement; (2)

Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Record keeping burden. OMB invites public comment.

Currently, the National Mediation Board is soliciting comments concerning the proposed extension of the Application for Mediation Services and is interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the agency; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the agency enhance the quality, utility, and clarity of the information to be collected; and (5) how might the agency minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: March 21, 2013.

June D.W. King,

Director, Office of Administration, National Mediation Board.

Application for Mediation Services

Type of Review: Extension.

Title: Application for Mediation Services, OMB Number: 3140–0002.

Frequency: On occasion.

Affected Public: Carrier and Union Officials, and employees of railroads and airlines.

Reporting and Recordkeeping Hour Burden:

Responses: 50 annually.

Burden Hours: 12.50.

Abstract: Section 5, First of the Railway Labor Act, 45 U.S.C., 155, First, provides that both, or either, of the parties to the labor-management dispute may invoke the mediation services of the National Mediation Board. Congress has determined that it is in the nation's best interest to provide for governmental mediation as the primary dispute resolution mechanism to resolve labor-management disputes in the railroad and airline industries. The Railway Labor Act is silent as to how the invocation of mediation is to be accomplished and the Board has not promulgated regulations requiring any specific vehicle. Nonetheless, 29 CFR 1203.1 provides that applications for mediation services be made on printed forms which may be secured from the National Mediation Board. This section of the regulations provides that applications should be submitted in duplicate, show the exact nature of the dispute, the number of employees involved, name of the carrier and name of the labor organization, date of agreement between the parties, date and copy of notice served by the invoking party to the other and date of final conference between the parties. The application should be signed by the highest officer of the carrier who has been designated to handle disputes under the Railway Labor Act or by the chief executive of the labor organization, whichever party files the application.

The extension of this form is necessary considering the information provided by the parties is used by the Board to structure a mediation process that will be productive to the parties and result in a settlement without resort to strike or lockout. The Board has been very successful in resolving labor disputes in the railroad and airline industries. Historically, some 97 percent of all NMB mediation cases have been successfully resolved without interruptions to public service. Since 1980, only slightly more than 1 percent of cases have involved a disruption of service. This success ratio would possibly be reduced if the Board was unable to collect the brief information that it does in the application for mediation services.

Requests for copies of the proposed information collection request may be accessed from *www.nmb.gov* or should be addressed to Denise Murdock, NMB, 1301 K Street NW., Suite 250 E, Washington, DC 20005 or addressed to the email address *murdock@nmb.gov* or faxed to 202–692–5081. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to June D.W. King at 202–692–5010 or via Internet address *king@nmb.gov.* Individuals who use a telecommunications device for the deaf (TDD/TDY) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2013–07070 Filed 3–26–13; 8:45 am]

BILLING CODE 7550–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by April 26, 2013. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Division of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Polly A. Penhale at the above address or (703) 292–7420.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

Permit Application: 2013–029

1. *Applicant* Chi-Hing Christina Cheng, Department of Animal Biology, 515 Morrill Hall, University of Illinois, 505 S. Goodwin Avenue, Urbana, IL 61801.

Activity for Which Permit is Requested

Enter Antarctic Specially Protected Areas. The applicant intends to enter ASPA 152-Western Bransfield Strait, and ASPA 153-Eastern Dallmann Bay to capture Antarctic fish by trawling and trapping. The project will study the antifreeze glycoprotein that is circulated in their circulatory space. For two of the species, *D. mawsoni* and *C. aceratus,* they will collect juveniles that will be sampled for obtaining sequences of genes expressed in young developmental stages. These will be added to sequences of adult *D. mawsoni* collected from McMurdo Sound, and adult *C. aceratus* that will be collected at the same time as the juveniles. The purpose is to have different ages represented in a comprehensive transcriptome of both species, for comparing to a basal non-Antarctic

notothenioid for the purpose of understanding how gene expression contributed to cold adaptation in Antarctic species.

East Dallmann Bay (ASPA 153) and Western Bransfield Strait around Low Island (ASPA 152) have historically been the locations that yield these target species.

Location

Antarctic Peninsula including ASPA 152-Western Bransfield Strait, and ASPA 153-Eastern Dallmann Bay.

Dates

July 1, 2013 to September 30, 2013.

Nadene G. Kennedy,

Permit Officer, Division of Polar Programs.

[FR Doc. 2013–06938 Filed 3–26–13; 8:45 am]

BILLING CODE 7555–01–P

PRESIDIO TRUST

Notice of Public Meeting of Fort Scott Council

AGENCY: The Presidio Trust.

ACTION: Notice of public meeting of Fort Scott Council.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given that a public meeting of the Fort Scott Council (Council) will be held from 8:30 a.m. to 12:00 p.m. on Tuesday, April 23, 2013. The meeting is open to the public, and oral public comment will be received at the meeting. The Council was formed to advise the Executive Director of the Presidio Trust (Trust) on matters pertaining to the rehabilitation and reuse of Fort Winfield Scott as a new national center focused on service and leadership development.

SUPPLEMENTARY INFORMATION: The Trust's Executive Director, in consultation with the Chair of the Board of Directors, has determined that the Council is in the public interest and supports the Trust in performing its duties and responsibilities under the Presidio Trust Act, 16 U.S.C. 460bb appendix.

The Council will advise on the establishment of a new national center (Center) focused on service and leadership development, with specific emphasis on: (a) Assessing the role and key opportunities of a national center dedicated to service and leadership at Fort Scott in the Presidio of San Francisco; (b) providing recommendations related to the Center's programmatic goals, target audiences, content, implementation and evaluation; (c) providing guidance on a phased development approach that leverages a combination of funding sources including philanthropy; and (d) making recommendations on how to structure the Center's business model to best achieve the Center's mission and ensure long-term financial self-sufficiency.

Meeting Agenda: In this meeting of the Council, members will review the case statement for the Center, provide input on a marketing presentation and develop task groups for the Council's strategic work plan. The period from 11:30 a.m. to 12:00 p.m. will be reserved for public comments.

Public Comment: Individuals who would like to offer comments are invited to sign-up at the meeting and speaking times will be assigned on a first-come, first-served basis. Written comments may be submitted on cards that will be provided at the meeting, via mail to Laurie Fox, Presidio Trust, 103 Montgomery Street, PO Box 29052, San Francisco, CA 94129–0052, or via email to *fortscott@presidiotrust.gov.* If individuals submitting written comments request that their address or other contact information be withheld from public disclosure, it will be honored to the extent allowable by law. Such requests must be stated prominently at the beginning of the comments. The Trust will make available for public inspection all submissions from organizations or businesses and from persons identifying themselves as representatives or officials of organizations and businesses.

Time: The meeting will be held from 8:30 a.m. to 12:00 p.m. on Tuesday, April 23, 2013.

Location: The meeting will be held at The Observation Post at the Presidio, 211 Lincoln Boulevard, San Francisco, CA.

FOR FURTHER INFORMATION CONTACT: Additional information is available online at *www.presidio.gov/fortscott.*

Dated: March 21, 2013.

Karen A. Cook,

General Counsel.

[FR Doc. 2013–07049 Filed 3–26–13; 8:45 am]

BILLING CODE 4310–4R–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

Summary: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collection of information to determine (1) the practical utility of the collection; (2) the accuracy of the estimated burden of the collection; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

1. Title and Purpose of information collection: Evidence of Marital Relationship, Living with Requirements; OMB 3220–0021.

To support an application for a spouse or widow(er)'s annuity under Sections 2(c) or 2(d) of the Railroad Retirement Act, an applicant must submit proof of a valid marriage to a railroad employee. In some cases, the existence of a marital relationship is not formalized by a civil or religious ceremony. In other cases, questions may arise about the legal termination of a prior marriage of the employee, spouse, or widow(er). In these instances, the RRB must secure additional information to resolve questionable marital relationships. The circumstances requiring an applicant to submit documentary evidence of marriage are prescribed in 20 CFR 219.30.

In the absence of documentary evidence, the RRB needs to determine if a valid marriage existed between a spouse or widow(er) annuity applicant and a railroad employee. The RRB utilizes Forms G–124, Individual Statement of Marital Relationship; G–124a, Certification of Marriage Information; G–237, Statement Regarding Marital Status; G–238, Statement of Residence; and G–238a, Statement Regarding Divorce or Annulment, to secure the needed information. One response is requested of each respondent. Completion is required to obtain benefits.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (78 FR 3041 on January 15, 2013) required by 44 U.S.C.

3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Evidence of Marital Relationship, Living with Requirements.

OMB Control Number: 3220–0021.

Forms submitted: G–124, G–124a, G–237, G–238, G–238a.

Type of request: Extension without change of a currently approved collection.

Affected public: Individuals or Households.

Abstract: Under the RRA, to obtain a benefit as a spouse of an employee annuitant or as the widow(er) of the deceased employee, an applicant must submit information to be used to determine if the marriage requirements for such benefits have been met. The collection contains information supporting claimed common-law marriage, termination of previous marriages, and residency requirements.

Changes proposed: The RRB proposes no changes to the forms in the collection.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–124 (In person)	125	15	31
G–124 (By mail)	75	20	25
G–124a	300	10	50
G–237 (In person)	75	15	19
G–237 (By mail)	75	20	25
G–238 (In person)	150	3	8
G–238 (By mail)	150	5	13
G–238a	150	10	25
Total	1,100		196

Previous Requests for Comments: The RRB has already published the initial 60-day notice (78 FR 3041 on January 15, 2013) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV*.

Comments regarding the information collection should be addressed to Charles Mierzwa, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or *Charles.Mierzwa@RRB.GOV* and to the OMB Desk Officer for the RRB, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov*.

Charles Mierzwa,

Chief of Information Resources Management.

[FR Doc. 2013–07014 Filed 3–26–13; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–30431; File No. 812–14033]

ING Life Insurance and Annuity Company, et al; Notice of Application

March 21, 2013.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order approving the substitution of certain securities pursuant to Section 26(c) of the Investment Company Act of 1940, as amended (the ''1940 Act'' or ''Act'').

APPLICANTS: ING Life Insurance and Annuity Company (''ING Life''), ING USA Annuity and Life Insurance Company (''ING USA''), ReliaStar Life Insurance Company of New York (''ReliaStar NY''), and Security Life of Denver Insurance Company (each a ''Company'' and together, the ''Companies''), Variable Annuity Account B of ING Life Insurance and Annuity Company, Variable Annuity Account I of ING Life Insurance and Annuity Company, Separate Account B of ING USA Annuity and Life Insurance Company, Separate Account EQ of ING USA Annuity and Life Insurance Company, ReliaStar Life Insurance Company of New York Separate Account NY–B, Security Life Separate Account S–A1 (each, a ''Separate Account'' and together, the ''Separate Accounts'') and ING Investors Trust. The Companies, the Separate Accounts, and ING Investors Trust are collectively referred to herein as the ''Applicants.''

SUMMARY OF APPLICATION: The Applicants seek an order pursuant to Section 26(c) of the 1940 Act, approving the substitution of shares of the ING Large Cap Growth Portfolio, a series of the ING Investors Trust (the ''Replacement Fund'') for shares of the Fidelity VIP Contrafund Portfolio, a series of the Fidelity Variable Insurance Products Fund II (the ''Existing Fund''), held by the Separate Accounts to fund certain variable annuity contracts (collectively, the ''Contracts'') issued by the Companies.

FILING DATE: The application was filed on May 14, 2012, and amended and restated applications were filed on November 16, 2012, January 22, 2013, and March 18, 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 Secretary of the Commission and serving the 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 11, 2013, and should be accompanied by proof of service on the applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester'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 Secretary of the Commission.

ADDRESSES: Secretary, SEC, 100 F Street NE., Washington, DC 20549–1090. Applicants: J. Neil McMurdie, Esquire, ING Americas U.S. Legal Services, One Orange Way, C2N, Windsor, CT 06095.

FOR FURTHER INFORMATION CONTACT: Jeffrey Foor, Senior Counsel, or Joyce M. Pickholz, Branch Chief, Insured Investments Office, Division of Investment Management, at (202) 551–6795.

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 Companies, on their own behalf and on behalf of their respective separate accounts, propose to substitute shares of the Replacement Fund for shares of the Existing Fund held by the Separate Accounts to fund the Contracts.

2. ING Life is the depositor of Variable Annuity Account B of ING Life Insurance and Annuity Company and Variable Annuity Account I of ING Life Insurance and Annuity Company. ING USA is the depositor of Separate Account B of ING USA Annuity and Life Insurance Company and Separate Account EQ of ING USA Annuity and Life Insurance Company. ReliaStar NY is the depositor of ReliaStar Life Insurance Company of New York Separate Account NY–B. Security Life of Denver Insurance Company is the depositor of Security Life Separate Account S–A1.

3. Each of Variable Annuity Account B of ING Life Insurance and Annuity Company, Variable Annuity Account I of ING Life Insurance and Annuity Company, Separate Account B of ING USA Annuity and Life Insurance Company, Separate Account EQ of ING USA Annuity and Life Insurance Company, ReliaStar Life Insurance Company of New York Separate Account NY–B, and Security Life Separate Account S–A1 is a ''separate account'' as defined by Rule 0–1(e) under the Act and each is registered under the Act as a unit investment trust for the purpose of funding the Contracts. Security interests under the Contracts have been registered under the Securities Act of 1933. Each Separate Account is divided into subaccounts, each of which invests exclusively in shares of the Existing Fund or another open-end management investment company. The application sets forth the registration statement file numbers for the Contracts and the Separate Accounts.

4. ING Investors Trust and Fidelity Variable Insurance Products Fund II are registered open-end management investment companies of the series type (File Number 811–05629 and 811–05511, respectively).

5. Overall management services to the Replacement Fund are provided by Directed Services, LLC, a registered investment adviser and an indirect wholly owned subsidiary of ING Groep, N.V.[1] The Replacement Fund is sub-advised by ING Investment Management Co.

6. The Contracts are individual variable annuity contracts. Each of the Contracts permit the issuing Company to substitute shares of one open-end management investment company with shares of another, subject to Commission approval and compliance with applicable law. The prospectuses for the Contracts and the Separate Accounts contain disclosures of this right. The Contracts which offer the Existing Fund as an investment option are registered in the Form N–4 Registration Statements listed in section II.B. of the application.

7. Although not articulated exactly the same way, the investment objectives of the Existing Fund and the Replacement Fund are similar and the principle investment strategies of each portfolio are substantially similar. The ING Large Cap Growth Portfolio seeks long-term capital growth while the Fidelity VIP Contrafund Portfolio seeks long-term capital appreciation. Both portfolios invest primarily in common stocks of large-cap U.S. companies, with an emphasis on earnings growth as a criterion for investment. A comparison of the investing strategies and risks of the Existing Fund and the Replacement Fund is included in the application.

The following table compares the fees and expenses of the Existing Fund and the Replacement Fund as of December 31, 2012:

	Management fees (percent)	Distribution (12b–1) fees (percent)	Administrative service fee (percent)	Other expenses (percent)	Total annual expenses (percent)	Expense waivers (percent)	Net annual expenses (percent)
Replacement Fund:							
• ING Large Cap Growth Portfolio—Class I	0.55	0.00	0.10	0.02	0.67	[2] −0.07	0.60
Existing Fund:							
• Fidelity VIP Contrafund Portfolio—Initial Class	0.56	0.00	.....	0.08	0.64	.....	0.64
Replacement Fund:							
• ING Large Cap Growth Portfolio—Class S	0.55	0.25	0.10	0.02	0.92	[1] −0.07	0.85
Existing Fund:							
• Fidelity VIP Contrafund Portfolio—Service Class 2	0.56	0.25	.....	0.08	0.89	.....	0.89

8. By means of supplements to the prospectuses for the Contracts, all owners of the Contracts affected by the substitutions were notified of the application to substitute shares of the funds as described herein. Among other

[1] As part of a restructuring plan approved by the European Commission, ING has agreed to separate its banking and insurance businesses by 2013. ING intends to achieve this separation by divestment of its insurance and investment management operations, including the Companies. ING has announced that it will explore all options for implementing the separation including one or more initial public offerings, sales, or a combination thereof. On November 10, 2010, ING announced that ING and its U.S. insurance affiliates, including the Companies, are preparing for a base case of an initial public offering (''IPO'') of its U.S.-based insurance and investment management affiliates, including DSL.

[2] Directed Services LLC, the adviser, is contractually obligated to limit expenses to 0.60 and 0.85 for Class I and Class S shares, respectively, through May 1, 2014; the obligation does not extend to interest, taxes, brokerage commissions, Acquired Fund Fees and Expenses, and extraordinary expenses. This obligation will automatically renew for one-year terms unless it is terminated by the Portfolio or the adviser upon written notice within 90 days of the end of the current term or upon termination of the management agreement and is subject to possible recoupment by the adviser within three years. The amount of the Portfolio's expenses to be waived, reimbursed or recouped by Directed Services LLC is shown under the heading ''Expense Waivers.''

information regarding the Substitution, the supplements informed affected Contract Owners that beginning on the date of the supplements the Companies will not exercise any rights reserved by them under the Contracts to impose restrictions or fees on transfers from the Existing Fund (other than restrictions related to frequent or disruptive transfers) until at least 30 days after the effective date of the Substitution. Following the date the order requested by this application is issued, but before the effective date, affected Contract Owners will receive a second supplement to the Contract prospectuses setting forth the effective date and advising affected Contract Owners of their right, if they so choose, at any time prior to the effective date, to reallocate or withdraw accumulated value in the Existing Fund subaccounts under their Contracts or otherwise terminate their interest therein in accordance with the terms and conditions of their Contracts. If affected Contract Owners reallocate account value prior to the effective date or within 30 days after the effective date, there will be no charge for the reallocation of accumulated value from the Existing Fund subaccount and the reallocation will not count as a transfer when imposing any applicable restriction or limit under the Contract on transfers. Additionally, all current Contract Owners will be sent prospectuses of the Replacement Fund before the effective date.

9. The proposed substitution will take place at relative net asset value with no change in the amount of any affected Contract owner's contract value, cash value, accumulation value, account value or death benefit or in dollar value of his or her investment in the Separate Accounts.

10. Shares of the Existing Fund will be redeemed for cash. The Companies, on behalf of the Existing Fund subaccount of each relevant Separate Account, will simultaneously place a redemption request with the Existing Fund and a purchase order with the Replacement Fund so that the purchase of Replacement Fund shares will be for the exact amount of the redemption proceeds. Thus, Contract values will remain fully invested at all times. The proceeds of such redemptions will then be used to purchase the appropriate number of shares of the Replacement Fund. Initial Class shares of the Existing Fund will be substituted for Class I shares of the Replacement Fund, while Service Class 2 shares of the Existing Fund will be substituted for Class S shares of the Replacement Fund.

11. The affected Contract Owners will not incur any fees or charges as a result of the Substitution nor will their rights or the Companies' obligations under the Contracts be altered in any way. The Companies or their affiliates will pay all expenses and transaction costs of the Substitution, including legal and accounting expenses, any applicable brokerage expenses, and other fees and expenses. The Substitution will not cause the Contract fees and charges currently being paid by affected Contract Owners to be greater after the Substitution than before the Substitution. Moreover, affected Contract Owners will not incur any additional tax liability as a result of the Substitution. Also, as described in the application, after notification of the Substitution and for 30 days after the effective date, affected Contract Owners may reallocate the subaccount value of the Existing Fund to any other investment option available under their Contract without incurring any administrative costs or allocation (transfer) charges.

12. In addition to the prospectus supplements distributed to owners of Contracts, within five business days after the proposed substitution is completed, Contract Owners will be sent a written confirmation informing them that shares of the Existing Fund have been redeemed and that the shares of Replacement Fund have been substituted. The confirmation will show how the allocation of the Contract Owner's account value before and immediately following the Substitution has changed as a result of the Substitution and detail the transactions effected on behalf of the respective Contract Owner because of the Substitution.

13. The Applicants state that Contract Owners will be better served by the proposed Substitution for many reasons. The Applicants state that the Substitution is a part of the Companies' overall business plan to make the Contracts more competitive (and thus more attractive to customers) and more efficient to administer and oversee. The Substitution will replace an unaffiliated fund with a fund that is advised and sub-advised by affiliates of the Companies. Additionally, the Replacement Fund will only be available through variable insurance products offered by the Companies or their affiliated insurance companies. Therefore, the Applicants believe the Board of the Replacement Fund will have greater sensitivity to the needs of Contract Owners. As the Substitution will provide the Companies with more influence over the administrative aspects of the funds offered through the Contracts, the Applicants assert that the Substitution will reduce costs related to unanticipated or off-cycle communications and mailings to Contract Owners. Further, the Companies have an on-going fund due diligence process through which they select, evaluate and monitor the funds available through the Contracts. The Applicants state that this process contributes to the Companies' ability to offer competitive products and services and assist their customers in meeting their financial goals while permitting the Companies to respond to expense, performance and management matters that they have identified in their due diligence reviews. The Applicants believe another benefit of the Substitution is that the Replacement Fund employs substantially similar principal investment strategies and resources to fulfill its investment objective while providing a decrease in Total Net Expenses for shareholders of the Existing Fund. In addition, the Applicants note that for Contract Owners affected by the Substitution, the Companies will not exercise any rights reserved by them under the Contracts to impose restrictions or fees on transfers from the Existing Fund (other than restrictions related to frequent or disruptive transfers) until at least 30 days after the effective date of the Substitution.

14. For these reasons, and the reasons discussed in more detail in the application, the Applicants assert that the Substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

Legal Analysis and Conditions

Section 26(c) Relief

1. The Applicants request that the Commission issue an order pursuant to Section 26(c) of the Act approving the proposed substitution. Section 26(c) of the Act requires the depositor of a registered unit investment trust holding the securities of a single issuer to obtain Commission approval before substituting the securities held by the trust.

2. Each of the prospectuses for the Contracts expressly discloses that the issuing Company reserves the right, subject to compliance with applicable law, to substitute shares of another open-end management investment company for shares of an open-end management investment company held by a subaccount of a Separate Account. Applicants maintain that Contract Owners will be better served by the

proposed Substitution. Applicants anticipate that the replacement of the Existing Fund will result in a Contract that is administered and managed more efficiently, and one that is more competitive with other variable products. As described in the application, the Replacement Fund will be managed according to similar investment objectives and policies as the Existing Fund. Moreover, the overall net fees of the Replacement Fund are less than those of the Existing Fund.

3. Applicants assert that the proposed substitution is not of the type that Section 26(c) was designed to prevent. Unlike traditional unit investment trusts where a depositor could only substitute an investment security in a manner which permanently affected all the investors in the trust, the Contracts provide each Contract owner with the right to exercise his or her own judgment and transfer Contract or cash values into other subaccounts. Moreover, the Contracts will offer Contract owners the opportunity to transfer amounts out of the affected subaccounts into any of the remaining subaccounts without cost or other disadvantage. The proposed Substitution, therefore, will not result in the type of costly forced redemptions that Section 26(c) was designed to prevent. Applicants maintain that the proposed Substitution also is unlike the type of substitution which Section 26(c) was designed to prevent in that by purchasing a Contract, Contract owners select much more than a particular investment company in which to invest their account values. They also select the specific types of insurance coverage offered by the various Companies under the Contracts as well as numerous other rights and privileges set forth in each Contract.

4. The Applicants agree that for two years following the implementation of the Substitution described herein, the net annual expenses of the Replacement Fund will not exceed the net annual expenses of the Existing Fund as of December 31, 2012 (net annual expenses will not exceed 0.64% for the ING Large Cap Growth Portfolio—Class I, and 0.89% for Class S). To achieve this limitation, DSL will waive fees or reimburse the Replacement Fund in certain amounts to maintain expenses at or below the limit. Any adjustments will be made at least on a quarterly basis. In addition, the Companies will not increase the Contract fees and charges, including asset based charges such as mortality and expense risk charges deducted from the Subaccounts that would otherwise be assessed under the terms of the Contracts for a period of at least two years following the Substitution.

5. Under the manager-of-managers relief granted to the ING Investors Trust, a vote of the shareholders is not necessary to change a sub-adviser, except for changes involving an affiliated sub-adviser. Notwithstanding, after the effective date of the Substitutions the Applicants agree not to change the Replacement Fund's sub-adviser without first obtaining shareholder approval of either (1) the sub-adviser change or (2) the parties continued ability to rely on their manager-of-managers relief.

6. The Applicants submit that the proposed substitution meets the standards set forth in Section 26(c) and assert that the replacement of the Existing Fund with the Replacement Fund is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

Conclusion

For the reasons and upon the facts set forth above and in the application, the Applicants assert that the requested order meets the standards set forth in Section 26(c) of the Act and should therefore, be granted.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–07012 Filed 3–26–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69210; File No. SR–MIAX–2013–12]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing of a Proposed Rule Change Relating to Obvious Errors in Limit or Straddle States

March 22, 2013.

Pursuant to the provisions of 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 22, 2013, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory orgnaization. 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 530, Limit Up-Limit Down (''LULD''), and to amend Exchange Rule 521, Obvious and Catastrophic Errors to provide for how the Exchange proposes to treat erroneous options transactions in response to the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS, as it may be amended from time to time (the ''Plan'').

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend MIAX Rules 530 and 521 to provide for how the Exchange proposes to treat erroneous options transactions in response to the Plan.

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, related changes to the equities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

market clearly erroneous execution rules, and more stringent equities market maker quoting requirements. On May 31, 2012, the Commission approved the Plan, as amended, on a one-year pilot basis. 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. The Plan is designed to prevent trades in individual NMS stocks from occurring outside of specified Price Bands. The instant proposed rule change is intended to adopt MIAX rules that address the trading of options overlying NMS Stocks that are the subject of the Plan and its provisions during times of unusual volatility in the markets.

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.

Limit State and Straddle State

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. 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. 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 indicating that it is non-executable. Such bids or offers shall not be included in the National Best Bid or National Best Offer calculations. 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. 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.

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 nonexecutable 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.

Obvious Error

The Exchange analyzed in detail the operation of current Exchange Rule 521 (Obvious and Catastrophic Errors) and determined that it would be undesirable to apply that Rule to options when the underlying NMS Stock has entered either a Limit or Straddle State. However, the Exchange does not believe that it should operate without any protection against erroneous transactions during these periods. Therefore, the Exchange proposes that proposed Rule 530(j) apply to erroneous transactions in options when the underlying NMS Stock has entered either a Limit or Straddle State only when an erroneous transaction is due to a verifiable disruption or malfunction of the MIAX System.

The Exchange proposes to exclude transactions executed during a Limit or Straddle State from the provisions of MIAX Rule 521, on a one-year pilot basis, beginning on the date of implementation of the Plan, except in situations where the affected trade resulted from a verifiable disruption or malfunction of an Exchange execution, dissemination, or communication system, as discussed below.

Current Rule 521 provides a process by which a transaction may be busted or adjusted when the execution price of a transaction deviates from the option's theoretical price [3] by a certain amount.

As discussed above, during a Limit or Straddle State, options prices may deviate substantially from those available prior to or following the limit state. The Exchange believes that the application of this provision to all erroneous transactions that occur during a Limit or Straddle State 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 Rule 521 provides that if there are no quotes from other options exchanges for comparison purposes, the theoretical price will be determined by an Exchange Official. However, given that options market makers and other industry professionals will have difficulty pricing options during Limit and Straddle States, the Exchange does not believe it would be reasonable for an Exchange Official to derive theoretical prices to be applied to transactions executed during such unusual market conditions. Accordingly, the Exchange does not believe that the approach employed under Rule 521, which by definition depends on a reliable national best bid and offer in the option, is appropriate for all transactions that occur during a Limit or Straddle State. The Exchange believes that there is no reliable basis on which to determine the Theoretical Price of transactions that occur during a Limit or Straddle State. Accordingly, proposed Rule 530(j) will not include any provision to adjust the price of trades that occur during a Limit or Straddle State. Proposed Rule 530(j) will only apply to transactions occurring during Limit and Straddle States that resulted from a verifiable disruption or malfunction of an Exchange execution, dissemination, or communication system, and thus proposed Rule 530(j) will not include

[3] The Theoretical Price of an option is:

(1) 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;

(2) 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 standard bid/ask differential as permitted for pre-opening quotes under Rule 603(b)(4), as determined by an Exchange Official; or

(3) 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).

See Exchange Rule 521(b).

the numerical tables defining Obvious and Catastrophic Errors found in Rule 521(a). Moreover, the Exchange proposes to exclude the description of conditions other than a verifiable disruption or malfunction of an Exchange execution, dissemination, or communication system that give rise to a review that are included in current Rules 521(c)(2)(v) and (vi).[4]

After careful consideration, the Exchange believes the application of the current rule to all transactions occurring during a Limit or Straddle State would be impracticable during Limit and Straddle States, and could produce undesirable effects.

The Exchange believes that market participants should not be able to benefit from the time frames allotted to them from the time of the affected transaction within which they may request a review of their transactions in these situations. Suspending application of Rule 521 for all transactions occurring during a Limit or Straddle State (except for erroneous transactions that resulted from a verifiable disruption or malfunction of an Exchange execution, dissemination, or communication system, or due to an erroneous quote or print in the underlying NMS Stock as discussed below) would mitigate two of the undesirable aspects described above: (i) The moral hazard associated with granting a second look to trades that went against the market participant after market conditions have changed and (ii) gaming the obvious error rule to retroactively adjust market maker quotes by adjusting the execution price at a later time.

The Exchange notes that there are additional protections in place outside of Rule 521 that will continue to safeguard customers. 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.'' [5]

Secondly, as noted above, the Exchange will cancel unexecuted market orders in the MIAX System, and will reject market orders received during a Limit or Straddle State. Additionally, the MIAX System is designed with a built-in protection mechanism that will never trade through the NBBO price at the time of receipt of an order by more than one Minimum Price Variation (''MPV'').[6] Thus, Exchange functionality that filters out orders that appear to be erroneous or are at risk of execution at an erroneous price enhances the protections provided through LULD Functionality.

Reviewable Transactions

As stated above, the Exchange will review all erroneous transactions occurring during Limit and Straddle States that resulted from a verifiable disruption or malfunction of an Exchange execution, dissemination, or communication system. Accordingly, the Exchange is proposing to incorporate the relevant portions of Rule 521 into proposed Rule 530(j) to establish the process for such review. The Exchange proposes to adopt Commentary .06 to Rule 521, which provides that transactions in MIAX options that overly an NMS Stock that occur during a Limit or Straddle State are not subject to review under Rule 521. The Exchange shall apply proposed Rule 530(j) to such transactions.

Proposed Rule 530(j)(1)(ii) states that trades will continue to be subject to an obvious error or catastrophic error review in a Limit 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, or (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; (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); 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).

Currently, under Rule 521(a)(1) and (2), 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 nullified). 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.

[4] Under these rules, which will not be incorporated into proposed Rule 530(j), parties to a trade may have a trade nullified or its price adjusted if:

(v) 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); or

(vi) The trade occurred at a price that is deemed to be an Obvious Error as defined in Paragraph (a)(1) of this Rule 521.

[5] *See* Securities and Exchange Act Release No. 63241, 75 FR 69791 (November 15, 2010) (S7–03–10).

[6] This would only happen in the event that the Exchange receives an Intermarket Search Order (''ISO'') routed to the Exchange by an away market, in which the sending away market indicates that it has exhausted its efforts to trade at a better price than the Exchange's disseminated price and that such ISO can be executed at a price that is inferior to the then-disseminated NBBO.

Pursuant to current Rule 521(b), the theoretical price of an option is determined in one of three ways: (1) 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; (2) 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) [sic], as determined by an Exchange Official; or (3) 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 or Straddle State. Specifically, under Rule 521(b)(1), 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 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 current Rule 521(b)(1), which by definition depends on a reliable NBBO in the option, is appropriate during a Limit or Straddle State. The Exchange believes that excluding this from proposed Rule 530(j) is appropriate because while in a Limit 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 521(b)(2)) 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 current Rule 521(b)(3) applies to trades executed during openings. Because the Exchange does not intend to open an option during a Limit or Straddle State, this provision, on its face, will not apply.

For the same reasons, the Exchange is proposing that Rule 521(c)(2)(vi) not apply during a Limit or Straddle State.

In addition, the Exchange proposes that trades are not subject to an obvious error and catastrophic error review if pursuant to the provisions of Rule 521(c)(2)(vi) 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 or Straddle State, because the criteria for meeting the no-bid provision are more likely to be met in a Limit 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 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.

Regarding Obvious Errors, the Commission has stated previously 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 * * *''[7]

The Exchange believes that, 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

[7] *See* Securities Exchange Act Release No. 49785 (May 28, 2004), 69 FR 32090 (June 8, 2004) (SR–Phlx–2003–68).

away from the theoretical price than is required for Obvious Errors so that relief is only provided in extreme circumstances.

The Exchange believes that this proposal 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 proposed Rules 521(j)(1)(A)–(D) [sic], the Exchange believes that this continues to provide some protection to market participants.

The Exchange believes that, in addition to the built-in customer protections discussed above, it is necessary to protect investors from erroneous transactions resulting from a verifiable disruption or malfunction of an Exchange execution, dissemination, or communication system.

Proposed Rule 530(j) will also include identical language to that used in current Rule 521 regarding mutual agreement by the parties to an erroneous transaction during a trading halt, *i.e.,* trades on the Exchange will be nullified when the trade occurred during a trading halt in the affected option on the Exchange, or respecting equity options (including options overlying ETFs), the trade occurred during a trading halt on the primary market for the underlying security. Proposed Rule 530(j) will also incorporate the relevant elements of Rule 521 regarding the review procedure, requests for review, and appeals from decisions to bust a trade.

The Exchange has engaged in informal discussions with its members, and has received generally favorable feedback concerning its proposed handling of Obvious Errors during Limit and Straddle States, given the aforementioned built-in protections in the MIAX System.

During the one-year pilot period beginning on the date of implementation of the Plan, the Exchange will conduct its own analysis concerning the elimination of obvious error rules during limit 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 and straddle states, (2) assess the character of incoming order flow and transactions during limit and straddle states, and (3) review any complaints from members and their customers concerning executions during limit and straddle states. Additionally, the Exchange agrees to provide to the Commission data requested to evaluate the impact of the elimination of the obvious error rule, including data relevant to assessing the various analyses noted above.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act [8] in general, and furthers the objectives of Section 6(b)(5) of the Act [9] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the 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.

The Exchange believes the application of the current Obvious Error rule will be impracticable given the lack of a reliable NBBO in the options market during Limit 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 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 or Straddle States may deviate substantially from those available shortly following the Limit or Straddle State, the Exchange believes giving market participants time to reevaluate a transaction would create an unreasonable adverse selection opportunity that would discourage participants from providing liquidity during Limit or Straddle States. In this respect, the Exchange notes that by rejecting market orders and cancelling pending market orders, only those orders with a limit price will be executed during a Limit or Straddle State. Therefore, on balance, the Exchange believes that removing the potential inequity of nullifying or adjusting executions occurring during Limit 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 on the MIAX System 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 impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Specifically, the Exchange believes the proposed changes will not impose any burden on intra-market competition because it applies to all MIAX participants equally. The Exchange does not believe the proposed rules will impose any burden on inter-market competition as the proposed rules are intended to protect investors with the implementation of the Plan. In addition, the proposed changes will provide certainty of treatment and execution of options orders during periods of extraordinary market volatility.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

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–2013–12 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–2013–12. 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, located at 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–MIAX–2013–12 and should be submitted on or before April 8, 2013.[10]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–07062 Filed 3–26–13; 8:45 am]

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[10] The Commission believes that a 10-day comment period is reasonable, given the urgency of the matter. It will provide adequate time for comment. The Commission also notes that this proposal is substantially similar to proposals from NASDAQ OMX PHLX LLC, The NASDAQ Stock Market LLC, and NASDAQ OMX BX, Inc. which were published for comment in the **Federal Register** on March 20, 2013. *See* Securities Exchange Act Release Nos. 69141 (March 15, 2013), 78 FR 17262 (March 20, 2013) (SR–Phlx–2013–29); 69142 (March 15, 2013), 78 FR 17251 (March 20, 2013) (SR–NASDAQ–2013–048); and 69140 (March 15, 2013), 78 FR 17255 (March 20, 2013) (SR–BX–2013–026).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule To Establish Fees for Mini Options on BOX

March 21, 2013.

Pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 15, 2013, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule to establish fees for Mini Options on the BOX Market LLC (''BOX'') options facility. While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on March 18, 2013. 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*.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

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, Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule for trading on BOX to establish fees for option contracts overlying 10 shares of a security (''Mini Options'').

The Exchange represented in its filing with the Securities and Exchange Commission (''SEC'' or the ''Commission'') to establish Mini Options that, ''the current Fee Schedule will not apply to the trading of mini-options contracts. The Exchange will not commence trading of mini-options contracts until specific fees for mini-options contracts trading have been filed with the Commission.''[5] As the Exchange intends to begin trading Mini Options on March 18, 2013 it is submitting this filing to describe the transaction fees that will be applicable to the trading of Mini Options.

Mini Options have a smaller exercise and assignment value due to the reduced number of shares they deliver as compared to standard option contracts. Despite the smaller exercise and assignment value of Mini Options, the cost to the Exchange to process quotes and orders in Mini Options, perform regulatory surveillance and retain quotes and orders for archival purposes is the same as for a standard contract. This leaves the Exchange in a position of trying to strike the right balance of fees applicable to Mini Options. The Exchange, therefore, believes that adopting fees for Mini Options that are in some cases the same, in some cases proportionally lower, and in other cases exempt from the fees for standard contracts, is appropriate, reasonable, not unfairly discriminatory

[5] *See* Securities Exchange Act Release No. 68771 (January 30, 2013), 79 [sic] FR 8208 (February 5, 2013) (SR–BOX–2013–07).

and not burdensome on competition between participants, or between the Exchange and other exchanges in the listed options market place. The Exchange proposes to implement these changes on March 18, 2013.

The following is a discussion of the existing Fee Schedule as it relates to the treatment of Mini Options as compared to standard option contracts.

Section I. Exchange Fees

The Exchange proposes to assess Mini Options transactions 1/10th of the applicable standard contract Exchange Fee. Currently the Exchange assesses Exchange Fees based on transaction types and account types. Specifically, the Exchange has distinct fees for Auction Transactions (transactions executed through the BOX Price Improvement Period, Solicitation, and Facilitation auction mechanisms), and non-Auction Transactions (transactions executed on the BOX Book). The account types on BOX are Public Customer, Professional Customer, Broker-Dealer, and Market Maker (see BOX Rule 100 Series for definitions of each).

For Auction Transactions in Mini Options, the Exchange proposes to assess $0.015 per contract fee for Public Customer Improvement Orders in the PIP and Responses in the Solicitation and Facilitation mechanisms. For Non-Auction Transactions in Mini Options, the Exchange proposes to assess a $0.007 fee for Public Customers. For Professional Customers and Broker Dealers, the Exchange proposes to assess a $0.035 fee for Mini Options Auction Transactions in PIP Orders or Agency Orders, Improvement Orders in the PIP, and Responses in the Solicitation or Facilitation Auction Mechanisms. For Non-Auction Transactions in Mini Options, the Exchange proposes to assess a $0.040 fee for Professional Customers and Broker Dealers.

For the remaining types of Exchange Fees that are based upon a Participant's monthly average daily volume (''ADV'') in Auction Transactions and Non-Auction Transactions, the Exchange proposes to count Mini Options the same as a standard contact (i.e., one contract in a Mini Options will equal one standard option contract). At each ADV threshold, the Exchange proposes to charge Participants a per contract fee in Mini Options that is 1/10th the amount charged for standard contracts.

For example, Mini Options Exchange Fees for Initiating Participants in Auction Transactions set forth in Section I.A. of the BOX Fee Schedule will be as follows:

Initiating participant monthly ADV in auction transactions	Per contract fee in mini options (all account types)
150,001 contracts and greater	$0.010
100,001 contracts to 150,000 contracts	0.012
50,001 contracts to 100,000 contracts	0.015
20,001 contracts to 50,000 contracts	0.017
1 contract to 20,000 contracts [sic]	0.025 [sic]

The tiered, per contract fee for Market Makers set forth in Section I.B. of the BOX Fee Schedule will also be adjusted for Mini Options as follows:

Market Maker monthly ADV in non-auction transactions	Per contract fee in mini options
150,001 contracts and greater	$0.013
100,001 contracts to 150,000 contracts	0.016
50,001 contracts to 100,000 contracts	0.018
10,001 contracts to 50,000 contracts	0.020 [sic]
1 contract to 10,000 contracts [sic]	0.025 [sic]

Section II. Liquidity Fees and Credits

The Exchange currently assesses liquidity fees and credits for all options classes traded on BOX (unless explicitly stated otherwise) that are applied in addition to any applicable Exchange Fees described above. The Exchange proposes to amend Section II.D (Exempt Transactions) to state that Mini Options will also be considered exempt from all liquidity fees and credits.

Section III. Eligible Orders Routed to an Away Exchange

All fees on eligible orders routed to an away exchange will continue to apply to Mini Options. The Exchange currently charges customer accounts [6] $0.50 per contract executed on away exchanges and exempts Public Customer accounts from the routing fee for orders received by BOX via the Directed Order provided that: (A) 33% or more of a Participant's Public Customer Directed Orders received during the month are executed through the BOX PIP, and (B) less than 45% of a Participant's Directed Orders received are routed to and executed on an away exchange during the month. The purpose of this structure is to provide an incentive to Participants to submit their customer orders for execution on BOX, help the Exchange recover some of the costs incurred in providing routing services to Participants, and discourages potentially abusive and predatory order routing practices to evade fees on other exchanges. The Exchange uses third-party broker-dealers to route orders to other exchanges and incurs charges for each order routed to and executed at an away market, in addition to the transaction fees charged by other exchanges. Equally applying these fees to Mini Options will allow the Exchange to continue to offset the costs it incurs by routing orders to an away exchange. Participants can still ensure that these fees are not incurred by choosing to instruct BOX not to route their customer orders.

Furthermore, for purposes of determining if Non-Professional, Public Customer Directed Orders can qualify for the Public Customer Directed Order exemption, the Exchange proposes to count [sic] the same as standard contracts when calculating the percentage of contracts the Public Customer has executed on BOX compared to the percentage routed and executed away.

Section IV. Regulatory Fees

Presently the Exchange charges an Options Regulatory Fee (''ORF'') of $0.0030 per contract. The Options Regulatory Fee is assessed on each BOX Options Participant for all options transactions executed or cleared by the BOX Options Participant that are cleared by The Options Clearing Corporation (OCC) in the customer range regardless of the exchange on which the transaction occurs. The Exchange is proposing to charge the same rate for transactions in Mini Options, since the costs to the Exchange to process quotes, orders, trades and the necessary regulatory surveillance programs and procedures in Mini Options are the same as for standard contracts. As such, the Exchange feels that it is appropriate to charge the ORF at the same rate as the standard contract.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[7] in general, and Section 6(b)(4) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly

[6] The term Customer accounts includes both Professional Customers and Public Customers.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

discriminate between customers, issuers, brokers or dealers.

Exchange Fees

The Exchange has determined to charge fees for orders in Mini Options at a rate that is 1/10th the rate of fees the Exchange currently charges for trading in standard options. The Exchange believes the proposed fees and rebates are reasonable and equitable in light of the fact that while Mini Options do have a smaller exercise and assignment value, specifically 1/10th that of a standard option contract, the cost to the Exchange to process quotes and orders in Mini Options is the same as for a standard contract. Furthermore, Mini Options have been approved [sic] for trading at several other competing exchanges and market participants can readily direct order flow to any these venues if they deem the Mini Options fees to be excessive.[9]

The Exchange believes it is equitable and not unfairly discriminatory that Public Customers be charged lower fees in both Auction Transactions in Mini Options and non-Auction Transactions in Mini Options than Professionals and Broker-Dealers on BOX. The securities markets generally, and BOX in particular, have historically aimed to improve markets for investors and develop various features within the market structure for customer benefit. As such, the Exchange believes the proposed fees for Public Customer transactions in Mini Options are appropriate and not unfairly discriminatory. The Exchange believes comparably lower customer transaction fees are reasonable. The Exchange believes it promotes the best interests of investors to have lower transaction costs for Public Customers, and that the reduction in Mini Options fees will attract Public Customer order flow to BOX.

Moreover, the Exchange believes that assessing the same per executed contract fee for Professionals and Broker-Dealers in both Auction Transactions in Mini Options and non-Auction Transactions in Mini Options are reasonable, equitable and not unfairly discriminatory because these types of Participants are more sophisticated and have higher levels of order flow activity and system usage. This level of trading activity draws on a greater amount of BOX system resources than that of Public Customers, and thus, greater ongoing BOX operational costs. As such, rather than passing the costs of these higher order volumes along to all market participants, the Exchange believes it is more reasonable and equitable to assess those costs to the persons directly responsible. To that end, BOX aims to recover costs incurred by assessing Professionals and Broker-Dealers a market competitive fee. As stated above, BOX operates within a highly competitive business. The proposed fees charged to Professionals and Broker-Dealers in Mini Options have been designed to be comparable to the fees that such accounts would be charged at competing venues. Further, the Exchange believes that charging Professionals and Broker-Dealers the same fee for all transactions in Mini Options [sic] not unfairly discriminatory as the fees will apply to all Professionals and Broker-Dealers equally. Professionals and Broker-Dealers remain free to change the manner in which they access BOX.

The Exchange believes its proposal to include Mini Options volume in the ADV tiers for Initiating Participants in Auction Transactions is reasonable, equitable and not unfairly discriminatory. The Exchange believes that providing a volume discount to Options Participants that initiate auctions on Customer orders incentivizes these Participants to submit their customer orders to BOX, particularly into the PIP for potential price improvement. This potentially increased volume also increases potential revenue to BOX, and allows BOX and the Exchange to spread its administrative and infrastructure costs over a greater number of transactions, leading to lower costs per transaction. The decreased per transaction costs allow BOX to share its savings with its Participants in the form of lower tier rates.

Further, the Exchange believes it is equitable and non-discriminatory to provide Initiating Participants a tiered fee structure related to their participation in Auction Transactions. As stated above, the Exchange believes assessing 1/10th of the standard contract fee is reasonable and equitable in light of the fact that Mini Options do have a smaller exercise and assignment value, specifically 1/10th that of a standard option contract. The proposed fee structure for Mini Options is related to trading activity in BOX Auction Transactions and is available to all BOX Options Participants; they may choose to trade on BOX to take advantage of the discounted fees for doing so, or not. The Exchange also believes the proposed Mini Options fees for the BOX auction mechanisms are reasonable. Participants will benefit from the opportunity to aggregate their trading in the BOX Facilitation and Solicitation Auction mechanisms with their PIP transactions to more easily attain a discounted fee tier. The tiered fee structure in the BOX auction mechanisms aims to attract order flow to BOX, providing greater potential liquidity within the overall BOX market and its auction mechanisms, to the benefit of all BOX market participants.

Finally, with regard to Mini Options Exchange fees for transactions on the BOX Book, the Exchange believes it is equitable and not unfairly discriminatory for BOX Market Makers to have the opportunity to benefit from a potentially discounted fee less than that charged to other Participants. Market Makers have obligations that other Participants do not. In particular, they must maintain active two-sided markets in the Mini Options classes in which they are appointed, and must meet certain minimum quoting requirements. As such, the Exchange believes it is appropriate that Market Makers be charged lower Mini Options transaction fees on BOX.

The Exchange believes that the proposed tiered and potentially discounted fees for Market Makers that, on a daily basis, trade an average daily volume (as calculated at the end of the month) of 5,000 contracts or more [sic] on BOX represent a fair and equitable allocation of reasonable dues, fees, and other charges as they are aimed at incentivizing these Participants to provide a greater volume of liquidity. The Exchange believes that giving incentives for this activity results in increased volume on BOX. Such increased volume increases potential revenue to BOX, and would allow BOX and the Exchange to spread its administrative and infrastructure costs over a greater number of transactions, leading to lower costs per transaction. The decreased per transaction costs allow BOX to share its savings with its Participants in the form of lower tier rates.

The Exchange believes that the proposed Market Maker tiered execution fee for Mini Options is equitable because it is available to all Market Makers on an equal basis and provides discounts that are reasonably related to the size of the contract (1/10th that of a standard contract), and the value to an

[9] *See* Securities Exchange Act Release Nos. 67948 (September 28, 2012), 77 FR 60735 (October 4, 2012) (SR–NYSE–Arca–2012–64) (SR–ISE–2012–58); No. 68132 (November 1, 2012), 77 FR 66904 (November 7, 2012) (SR–Phlx–2012–126); No. 68656 (January 15, 2013), 78 FR 4526 (January 22, 2013) (SR–CBOE–2013–001); No. 69018 (March 1, 2013), 78 FR 15090 (March 8, 2013) (SR–BATS–2013–013); No. 68720 (January 24, 2013), 78 FR 6382 (January 30, 2013) (SR–NASDAQ–2013–011); No. 68719 (January 24, 2013), 78 FR 6391 (January 30, 2013) (SR–BX–2013–006).

exchange's market quality associated with higher levels of market activity. For the reasons listed above, the Exchange believes it is appropriate that Market Makers be charged potentially lower transaction fees for Mini Options on BOX when they provide greater volumes of liquidity to the market.

The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to combine volume in standard options and Mini Options to calculate the tier a Market Maker has reached because doing so will provide the Market Maker with an opportunity to qualify for increased rebates and, therefore, incentivize Participants to trade more of such order flow on the Exchange.

The Exchange believes that the proposed Mini Options Exchange Fees will keep BOX competitive with other exchanges as well as be applied in such a manner so as to be equitable among all BOX Participants. The Exchange believes the proposed fees are fair and reasonable and must be competitive with fees in place on other exchanges. Further, the Exchange believes that this competitive marketplace impacts the fees proposed for BOX.

Liquidity Fees and Credits

BOX believes that it is reasonable, equitable and not unfairly discriminatory to exempt Mini Options from Liquidity Fees and Credits. Liquidity fees and credits are intended to attract order flow to BOX by offering incentives to all market participants to submit their orders to BOX, and while the Exchange believes that Mini Options fill a need in the Marketplace by making options overlying highly priced securities more readily available as an investing tool and at more affordable and realistic prices, due to the unique and novel nature of Mini Options the Exchange believes it is reasonable to not provide an incentive to market participants to submit orders in these products.

Further, since the five issues that Mini Options will trade on are among the most actively traded issues, the Exchange does not believe that an added incentive to increase volume in these issues is needed. In standard contract transactions BOX collects a fee from Participants that add liquidity on BOX and credits another Participant an equal amount for removing liquidity. Stated otherwise, the collection of these liquidity fees does not directly result in revenue to BOX, but simply allows BOX to provide the credit incentive to Participants to attract order flow. The Exchange believes that it is reasonable and equitable to exempt Mini Options from liquidity fees and credits since these fees and credits for transactions offset one another in any particular transaction.

Further, it is not unfairly discriminatory as the exemption of Mini Options from liquidity fees and credits applies equally to all Participants and across all account types on the Exchange. As stated above, BOX operates within a highly competitive market in which market participants can readily direct order flow to any of eight [sic] other competing venues if they deem fees at a particular venue to be excessive. The Exchange believes that exempting Mini Options from liquidity fees and credits is reasonable compared to the similar fees and credits offered by the other exchanges since liquidity fees and credits do not directly result in revenue to BOX.

Routing Fees

BOX believes that applying the current routing fee structure for routing customer orders in Mini Options to other market venues is reasonable, equitable and not unfairly discriminatory for the following reasons. Presently, the Exchange charges customer accounts $0.50 per contract executed on away exchanges and exempts Public Customer accounts from the routing fee for orders received by BOX via Directed Order when certain execution thresholds are met. This fee is designed to help the Exchange recover some of the costs it incurs by routing orders to other exchanges, discourage potentially abusive and predatory order routing practices, and incentivize Participants to seek price improvement for their Public Customers.

The costs that BOX incurs for routing orders to an away exchange include clearance charges imposed by the OCC, charges from third-party broker dealers for each order routed to an away market, and the transaction fees charged by other exchanges. Unlike some exchanges that pass these costs directly on to the broker acting as the agent for the order which was executed, BOX only offsets its routing costs by charging a flat per contract fee. While some exchanges have proposed lower transaction fees for Mini Options, the charges imposed by the OCC and the third-party broker dealers will remain fixed regardless of the exercise and assignment value of the contract. Given the Exchange's need to cover the costs of Participants trading Mini Options, the Exchange believes it is reasonable to charge the same fee for routing Mini Options. Doing so will allow the Exchange to continue to offset a portion of its costs attendant with offering routing services and avoid sharing those costs with other Participants who are not trading Mini Options.

The Exchange notes that Participants can avoid the Routing Surcharge in several ways. First, they can manage their own routing to different options exchanges, or choose to utilize a myriad of other routing solutions that are available to market participants. Lastly, they can instruct BOX not to route their orders to away exchanges by designating them as Fill and Kill (''FAK''). Given this ability to avoid the routing fee, coupled with the fixed third party costs associated with routing, the Exchange feels it is reasonable and equitable to charge the same routing fee for Mini Options that is charged for standard option contracts.

Further, the Exchange believes it is equitable and non-discriminatory to continue to offer certain Public Customer Directed Orders an exemption from the routing fee, in orders for Mini Options or standard contracts. By assessing a fee for routing certain orders, BOX aims to recover its costs in providing this optional service and prevent Participants from submitting orders on BOX to evade other exchanges' fees. However, BOX also wishes to provide incentives to Participants to seek price improvement for their Public Customer orders by entering them into the PIP. The Exchange believes that providing non-Professional, Public Customer Directed Orders an exemption from certain routing fees is consistent with the long history in the options markets of such customers being given preferred treatment. BOX has already established the exemption thresholds for Public Customer Directed Orders and believes it is appropriate to count Mini Options transactions toward a Participant's monthly executions when determining if the Participant has met these thresholds at the end of the month.

Regulatory Fees

Finally, as discussed above, the Exchange believes that charging the same ORF for transactions in Mini Options, is reasonable, equitable and not unfairly discriminatory since the costs to the Exchange to process quotes, orders, trades and the necessary regulatory surveillance programs and procedures in Mini Options are the same as for standard contracts. The ORF is in place to help the Exchange offset regulatory expenses and the Exchange's cost of supervising and regulating Participants, including performing routine surveillances, and policy, rulemaking, interpretive, and

enforcement activities remains the same for Mini Options.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is designed to provide greater specificity and precision within the Fee Schedule with respect to the fees that will be applicable to Mini Options when they begin trading on the Exchange on March 18, 2013.

The Exchange believes that adopting fees for Mini Options that are in some cases the same, in some cases proportionally lower, and in other cases exempt from the fees for standard contracts, strikes the appropriate balance between fees applicable to standard contracts versus fees applicable to Mini Options, and will not impose a burden on competition among various market participants on the Exchange, or between the Exchange and other exchanges in the listed options marketplace, not necessary or appropriate in furtherance of the purposes of the Act. BOX currently assesses distinct standard contract Exchange Fees for different account and transaction types. The Exchange believes that applying this segmented fee structure to Mini Options will result in these participants being charged proportionally for their transactions in Mini Options. In this regard, as Mini Options are a new product being introduced into the listed options marketplace, the Exchange is unable at this time to absolutely determine the impact that the fees and rebates proposed herein will have on trading in Mini Options. That said, however, the Exchange believes that the rates proposed for Mini Options would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Finally, 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 reflects this 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 either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act [10] and Rule 19b–4(f)(2) thereunder,[11] because it establishes or changes a due, fee, or other charge applicable only to a member.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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–BOX–2013–15 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–BOX–2013–15. 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–BOX–2013–15 and should be submitted on or before April 17, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–07009 Filed 3–26–13; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69201; File No. SR–ICC–2013–03]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change To Amend Rules Relating to Recovery and Resolution Arrangements

March 21, 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, ICE Clear Credit LLC (''ICC'') 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 primarily by ICC. 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

ICC is proposing amendments to its clearing rules (''Rules'') relating to clearinghouse resolution and recovery following the exhaustion of available resources after a clearing participant (''Participant'') defaults or series of Participants default. The amendments would, among other matters: (i) Establish a ''cooling-off period'' in cases of certain Participant defaults that result in guaranty fund depletion, in which case the liability of Participants and ICC for additional guaranty fund assessments would be capped for all defaults during that period; (ii) establish new procedures under which a Participant may terminate its status as a Participant, both in the ordinary course of business and during a cooling-off period, and related procedures for unwinding all positions of such a Participant and capping its continuing liability to ICC; (iii) provide for ''haircutting'' of mark-to-market margin gains and other outgoing payments by ICC in situations where ICC determines, following a Participant default, that it is unlikely to have sufficient resources to make all such payments; (iv) permit ICC to temporarily suspend payments on cleared contracts where ICC determines that mark-to-market margin haircutting of gains will not be sufficient to address a shortfall in resources, or where there has been a failed auction of positions of a defaulting Participant; (v) revise procedures for the termination of clearing and wind-up of outstanding contracts; and (vi) eliminate rules permitting the forced allocation of CDS positions to non-defaulting Participants in the case of a failed default auction, and (vii) provide for the use of guaranty fund contributions of Participants that fail to participate in default auctions prior to the use of guaranty fund contributions of other Participants.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC 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. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The proposed amendments are intended principally to address clearinghouse recovery and resolution arrangements. The proposed Rule amendments are described in detail as follows.

In Rule 102, new definitions of ''Account,'' ''Client Origin Account'' and ''House Account'' were added, and certain definitions no longer used in the Rules were removed. Rules 207 (''Termination of Participant Status'') and 209 (''Risk-Based Capital Requirement'') have been revised to conform to the new termination provisions in Rule 807. Further conforming changes and corrections are made in, and certain obsolete references have been removed from, Rules 312(b), 402, 406(g) and 503(a). A new subsection (b) has been added to Rule 604, which permits ICC to delay making outgoing mark-to-market margin payments on an intra-day basis in certain circumstances where a Participant has failed to make a mark-to-market margin payment to ICC on such day.

In addition to various conforming changes, Chapter 8 of the Rules has been revised to incorporate the new resolution and recovery provisions. Obsolete references to procedures for initial contributions by ICC to the guaranty fund have been removed from Rule 801 as they are no longer relevant. Rule 801(b)(vi) has been revised to cap ICC's obligation to contribute additional assets to the guaranty fund at $25 million in respect of any single Participant default and $75 million in respect of all defaults during any cooling-off period. Rule 801(c)(iii) and Rule 802(b) add an additional tranche to the guaranty fund waterfall to provide for use of guaranty fund contributions of Participants that fail to participate in or perform their obligations in connection with default auctions prior to the use of guaranty fund contributions of other Participants. Additional collateral deposits of Participants that fail to participate in or perform their obligations in connection with default auctions are similarly applied before additional collateral deposits of other Participants. Conforming changes have been made to Rules 802(a) and (c).

Rule 802(d) has been revised to provide that additional collateral deposits may be called from Participants in anticipation of any charge against the general guaranty fund following a default, rather than only after a charge. In addition, under the revised Rule, a Participant is not required to post an additional collateral deposit of more than 100% of its required guaranty fund contribution for any single default. However, a Participant is still liable for additional collateral deposits in respect of any specific wrong-way risk guaranty fund contribution. In addition, a retiring Participant is only obligated to make additional collateral deposits for defaults occurring prior to its termination date or, if applicable, during the cooling-off period. Rule 802(f) is being modified to provide that ICC may pledge assets in the guaranty fund to support borrowings to be used for default management purposes.

Rule 803 addressing the return of the guaranty fund has been revised to conform to the new termination of Participant status provisions in Rule 807. Rule 804 has been revised to conform to the new termination and final settlement provisions in Rule 810. The revised rule also clarifies that the single net amount owed by or owed to each Participant following termination shall take into account and be offset against available mark-to-market margin posted by ICC or the Participant.

New Rule 806 implements the ''cooling-off period'' concept. A ''cooling-off period'' is triggered by certain calls for additional collateral deposits or by sequential guaranty fund depletion within a 30-day period. Liability of Participants for additional collateral deposits is capped during the cooling-off period at three times the required guaranty fund contribution, regardless of the number of defaults during the period.

New procedures for termination of Participant status are added in new Rule 807. These apply both to ordinary course terminations outside of a default scenario and termination during a cooling-off period. Participants may retire from ICC during a cooling-off period by providing an irrevocable notice of termination during the first 10 business days of the period and must close out all positions within 30 days of such termination notice. A retiring Participant (other than during a cooling-off period) must make a deposit of three times its required guaranty fund contribution at the time of notice and will remain liable for defaults occurring prior to its termination date. Together with Rule 803, Rule 807(b)(viii) provides for the return of guaranty fund contributions to a retiring Participant within 5 business days of the termination date, or at the end of the month in which the termination date occurs, whichever is later.

[3] The Commission has modified the text of the summaries prepared by ICC.

Rule 808(a) contains various new definitions used in the haircutting provisions in Rule 808, the suspension provisions of Rule 809 and the termination provisions of Rule 810. New Rule 808 establishes the mark-to-market margin haircutting mechanism. The core of Rule 808 is a procedure for ''haircutting'' the mark-to-market margin and certain other contractual payments owed by ICC to Participants. A determination to impose such haircutting may be made, once certain conditions are satisfied, including the following:

(i) One or more Participant defaults have occurred but ICC has not yet determined and either paid or submitted a claim in respect of all the net amount due to or from the defaulter in respect of its proprietary account and its customer origin account; and (ii) ICC determines, based on one of several relevant tests, that its available resources are insufficient to pay all relevant outward mark-to-market margin and contractual payments and/or its available resources would be insufficient to cover the losses or shortfalls to ICC following a close-out of the defaulter's positions.

A haircutting determination will not be made if a determination to suspend clearing has been made under Rule 809, clearing is being terminated under Rule 810, or an ICC insolvency or failure to pay has occurred. In the event of a haircutting determination, on each day during the ''loss distribution period'' specified by ICC, the net amount owed on such day to each Participant that is deemed to be a ''cash gainer'' in respect of its house or customer origin account (*i.e.,* a member that would otherwise be entitled to receive mark-to-market margin or other payments in respect of such account) will be subject to a percentage haircut. Corresponding adjustments are also made for ''cash losers'' (*i.e.,* those who owe any amounts to ICC) to the extent amounts previously owed to them have been haircut. Haircuts are applied separately for the house and customer origin accounts, and on a net basis within those accounts.

New Rule 809 authorizes ICC to make a ''suspension determination'' for contracts where (i) its obligations to meet mark-to-market margin payments or the cost of auctioning off the positions of a defaulting Participant will not be satisfied through the haircutting procedure in Rule 808, (ii) following the determination of all net amounts owed in respect of a particular default, ICC may be rendered insolvent if it does not suspend clearing, or (iii) there has been a failed auction. In such case, during the suspension period, which is initially up to 2 business days, payments in respect of suspended contracts will be suspended.

New Rule 810 permits ICC to terminate contracts if, at the end of a suspension period under Rule 809, the conditions for suspension are still satisfied, or if conditions for suspension are satisfied but ICC does not commence a suspension. Rule 810 provides a procedure for determining the termination price for all contracts of the same type. To the extent the termination value payable by ICC for the terminated contracts exceeds available resources for those contracts, ICC's obligations will be limited to the available resources.

Rule 20–605(c)(vii), which permitted the forced allocation of CDS contracts to Participants in the event of a failed auction or other inability to close-out or transfer relevant positions, has been removed following extensive discussions with Participants. ICC believes that the risks of this scenario are now addressed through the haircutting, suspension, and termination procedures discussed above, as well as the revisions to Rule 802(b) that permit the use of guaranty fund contributions of Participants that fail to participate in a default auction prior to the contributions of other Participants.

(2) Statutory Basis

Section 17A(b)(3)(F) of the Act [4] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions. ICC believes that the proposed rule changes are consistent with the Act and the regulations thereunder applicable to ICC, in particular, to Section 17(A)(b)(3)(F),[5] because ICC believes that the new resolution and recovery rules will facilitate the prompt and accurate settlement of swaps and contribute to the safeguarding of securities and funds associated with swap transactions which are in the custody or control of ICC or for which it is responsible. ICC has developed the new resolution and recovery rules in response to issues raised by, and following extensive consultation with, its Participants. Specifically, ICC believes that the proposed rule changes will enhance the stability of ICC following the default of one or more Participants and reduce the risk of ICC failure or insolvency. The revisions will in particular facilitate the orderly wind-down or termination of contracts affected by a default. The amendments also provide clearer limitations on the liability of Participants for assessments following defaults, and a clearer procedure for termination of Participant status.

(B) Self-Regulatory Organization's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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–ICC–2013–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

[4] 15 U.S.C. 78q–1(b)(3)(F).

[5] *Id.*

All submissions should refer to File Number SR–ICC–2013–03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICC and on ICC's Web site at *https://www.theice.com/publicdocs/regulatory_filings/ICEClearCredit_20130306.pdf.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICC–2013–03 and should be submitted on or before April 17, 2013.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin O'Neill,

Deputy Secretary.

[FR Doc. 2013–07008 Filed 3–26–13; 8:45 am]

BILLING CODE 8011–01–P

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69197; File No. SR–NYSEArca–2013–28]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Definition of Complex Orders and Stock/Options Orders To Accommodate the Trading of Option Contracts Overlying 10 Shares of a Security

March 20, 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 19, 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 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 change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the definition of Complex Orders and Stock/Options orders to accommodate the trading of option contracts overlying 10 shares of a security (''mini-options contracts''). The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently amended its rules to allow for the listing of mini-options contracts on SPDR S&P 500 (''SPY''), Apple, Inc. (''AAPL''), SPDR Gold Trust (''GLD''), Google Inc. (''GOOG'') and Amazon.com Inc. (''AMZN'').[4] Whereas standard option contracts represent a deliverable of 100 shares of an underlying security, mini-options contracts represent a deliverable of 10 shares. Except for the difference in the number of deliverable shares, mini-options contracts have the same terms and contract characteristics as regular-sized equity and ETF options, including exercise style. The Exchange notes that Exchange rules that apply to the trading of standard option contracts would apply to mini-option contracts as well.

Prior to the commencement of trading mini-options, the Exchange proposes to amend Rule 6.62 (Certain Types of Orders Defined) and Rule 6.92 (Definitions) to provide that Exchange rules regarding complex orders shall apply to mini-options and that consequently, OTP Holders may execute complex orders and Stock/Option Orders involving mini-options contracts. Moreover, the Exchange seeks to amend these rules to provide that all permissible ratios referenced in the definitions of Stock/Option Orders represent the total number of shares of the underlying stock in the option leg to the total number of shares of the underlying stock in the stock leg. Finally, the Exchange seeks to make these amendments to coincide with a similar proposal recently submitted by another options market.[5]

Exchange Rule 6.62 governs Complex Orders and Stock/Options Orders on the Exchange and Rule 6.92 lists definitions applicable to intermarket linkage. Currently, a Stock/Option Orders are defined in Rule 6.62(h)(1) and Rule 6.92(a)(4)(ii) as an order to buy or sell a stated number of units of an underlying stock or a security convertible into the underlying stock coupled with the purchase or sale of options contract(s) on the opposite side of the market representing either (A) the same number of units of the underlying stock or convertible security, or (B) the number of units of the underlying stock

[4] *See* Securities Exchange Act Release Nos. [sic] 67948 (September 28, 2012), 77 FR 60735 (October 4, 2012) (SR–NYSE–Arca–2012–64) (SR–ISE–2012–58).

[5] *See* Securities Exchange Act Release No. 34–69129 (March 13, 2013) (SR–CBOE–2013–33).

necessary to create a delta neutral position, but in no case in a ratio greater than 8 options contracts per unit of trading of the underlying stock or convertible security established for that series by the Clearing Corporation. Therefore, under this definition it would be permissible to execute, for example, a trade where the options leg consists of one (1) standard option contract (i.e., 100 shares) and the stock leg consists of 100 shares of the underlying stock. Additionally, it would be permissible to execute a trade where the options leg consists of eight (8) standard option contracts (i.e., 800 shares) and the stock leg consists of 100 shares of the underlying stock.

The terms Complex Order in Rule 6.62(e) and Complex Trade in Rule 6.92(a)(4)(i) are defined substantially identical as any order involving the execution of two or more different options series in the same underlying security occurring at or near the same time in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00).

The Exchange notes that the abovementioned permissible ratios were established to ensure that only complex and Stock/Option orders that seek to achieve legitimate investment strategies are afforded certain benefits. Particularly, since compliance with trade-through rules may impede a market participant's ability to achieve the legitimate investment strategies that complex and Stock/Option orders facilitate, an exception from the prohibition on trade-throughs is provided for any transaction that was effected as a portion of a legitimate complex and Stock/Option order. Requiring a meaningful relationship between the different legs of a complex and Stock/Option order prevents market participants from taking advantage of these orders to circumvent the otherwise applicable trade-through rules (e.g., preventing the execution of a Stock/Option Order where the option leg consists of 100 options (i.e., 10,000 shares) and the stock leg consists of only 100 shares).

The Exchange proposes to amend the definition of Stock/Option Orders in Rule 6.62(h)(1) and Rule 6.92(a)(4)(ii). As discussed above, the Stock/Option Order definition in both Rule 6.62 and Rule 6.92 clearly permits that an option leg may be coupled with a stock leg representing the same number of units of the underlying stock (i.e., one-to-one ratio). The Exchange seeks to provide that mini-options contracts may also be coupled with a stock leg if the stock leg represents the same number of units of the underlying stock. For example, pursuant to the definition, it would be permissible to execute a trade where leg one consists of one (1) mini-option contract (i.e., 10 shares) and leg two consists of 10 shares of the underlying stock.

Next, the Exchange seeks to amend the Stock/Option Order definition in Rule 6.62 and Rule 6.92 to provide that in addition to standard options, mini-options contracts may be coupled with a stock leg consisting of however many units of the underlying stock is necessary to create a delta neutral position, provided that the total number of shares of the underlying stock in the option leg to the total number of shares of the underlying stock in the stock leg does not exceed an eight-to-one ratio. The proposed change specifies that the permissible ratios should be calculated and scaled based upon the total number of *shares of the underlying stock* in the option leg to the total number of shares of the underlying stock in the stock leg, instead of by the total number of option contracts in the option leg to the total number of shares of the underlying stock in the stock leg. An example of a permitted Stock/Option Order involving mini-options contracts would be an order in which leg one consists of eighty (80) mini-options contracts (i.e., 800 shares) and leg two consists of 100 shares of the underlying stock (i.e., eight-to-one ratio). Similarly, an order where leg one consists of eight (8) mini-options contracts (i.e., 80 shares) and leg two consists of 10 shares of the underlying stock would be permitted.

The proposed rule change provides that market participants may execute complex and Stock/Option orders involving mini-options contracts. The proposed change also ensures that the principle behind the permissible ratios (i.e., to provide a meaningful relationship between the legs of complex and Stock/Option Orders) is maintained for mini-options contracts.

The Exchange also proposes to amend the definition of Complex Order and Complex Trade to specify that when trading a Complex Order/Complex Trade that is comprised of both mini-options contracts and standard contracts, ten mini-options contracts will represent one standard contract. The Exchange seeks to make clear that the current definition of Complex Order in Rule 6.62(e) and Complex Trade in Rule 6.92(a)(4)(i) applies to both standard options and mini-options. The Exchange acknowledges that in accordance with the provisions of Rules 6.62(e) and 6.92(a)(4)(i), one leg of a complex order may consist of mini-options contract(s) and the other leg of the order may consist of standard options contract(s), so long as the underlying security is the same and the transaction does not violate the permissible ratios set forth in the rules (i.e. ratio greater or equal to one-to-three or less or equal to three-to-one). Moreover, the Exchange's proposed amendment seeks to provide that the permissible ratios represent the total number of shares of the underlying stock in the mini-option leg to the total number of shares of the underlying stock in the standard option leg. An example of a permissible complex order involving mini-options and standard options would be an order in which leg one consists of thirty (30) mini-options (i.e. 300 shares) and leg two consists of one (1) standard options (i.e. 100 shares) in the same underlying security (i.e., a ratio equal to 3.0). Another example of a permissible complex order would be an order in which leg one consists of ten (10) mini-options (i.e. 100 shares) and leg two consists of one (1) standard options (i.e. 100 shares) in the same underlying security (i.e., a ratio equal to one-to-one). The Exchange believes the proposed amendment will reduce potential confusion for investors when trading mini-options contracts. Further, the Exchange proposes to provide that Complex Orders comprised of both mini-options contracts and standard contracts are not available for Electronic Complex Order trading pursuant to Rule 6.91.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[6] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5),[7] in particular, because it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest.

Specifically, the Exchange believes that investors and other market participants would benefit from the current rule proposal because it would allow market participants to take advantage of legitimate investment strategies and execute complex and Stock/Option orders in mini-options contracts. Additionally, the Exchange believes the proposed rule change will avoid investor confusion if both standard options and mini-options on the same underlying security are

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

permitted to trade as complex and Stock/Option orders. Also, the proposal to maintain the permissible ratios that are applicable to standard options in proportion for mini-options contracts ensures that the principle behind the permissible ratios (i.e., to provide a meaningful relationship between the legs of complex and Stock/Option orders) is maintained for mini-options, which promotes just and equitable principles of trade. The Exchange believes that describing prior to the commencement of trading how the permissible ratios in complex and Stock/Option orders rules will be scaled for mini-options contracts would lessen investor and marketplace confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In particular, the proposed amendment is based upon recently published rule amendments by other option exchanges.[8] Since mini-options contracts are permitted on multiply-listed classes, other exchanges that have received approval to trade mini-options will have the opportunity to similarly amend their rules to clarify and accommodate complex and Stop/Option orders in mini-options.

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

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)[9] of the Act and Rule 19b–4(f)(6)[10] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) of the Act[11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii) of the Act,[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. In June 2012, the Exchange filed a proposed rule change to amend its rules to list and trade certain mini-options contracts on the Exchange, and represented in that filing that the Exchange's rules that apply to the trading of standard options contracts would apply to mini-options contracts.[13] The Exchange believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would minimize confusion among market participants about how complex orders and stock-options orders involving mini-options contracts will trade.[14]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Such waiver would allow the Exchange to implement the proposed rule change immediately, thereby mitigating potential investor confusion as to how complex orders and stock options orders involving mini-options contracts will trade. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.[15]

The Exchange represented that it began trading in mini-options contracts on March 18, 2013.[16] The Commission notes that this proposed rule change was filed on March 19, 2013, and, therefore, pursuant to Rule 19b–4(f)(6), waiver of the 30-day operative delay renders this proposed rule change effective upon the day that it was filed, March 19, 2013.

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 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–2013–28 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–2013–28. 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 20549–1090, 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

[8] *See supra* note 5.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of the filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] *See* Securities Exchange Act Release No. 67283 (June 27, 2012), 77 FR 39535 (July 3, 2012). *See also supra* note 4.

[14] *See id.*

[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* SR–NYSEArca–2013–28, Item 7.

submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2013–28, and should be submitted on or before April 17, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–07005 Filed 3–26–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69204; File No. SR–Phlx–2013–31]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Sections I and II of the Pricing Schedule

March 21, 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 15, 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's Pricing Schedule at Section I entitled ''Rebates and Fees for Adding and Removing Liquidity in Select Symbols,'' [3] and Section II entitled ''Multiply Listed Options Fees.'' [4]

While the changes proposed herein are effective upon filing, the Exchange has designated that the amendments be operative on April 1, 2013.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to increase certain Simple Order Fees for Removing Liquidity and Firm Options Transaction Charges in Penny and Non-Penny Pilot Options. Despite the increase to these fees, the Exchange believes that the fees remain competitive with fees assessed by other options exchanges. The Exchange is also proposing to waive the Firm Options Transaction Charge for the buy side of a transaction if the same member is both the buyer and seller of a Firm transaction when such members are trading in their own proprietary account in order to incentivize Firms to add and remove liquidity in the market.

Section I Amendments

The Exchange proposes to amend the Simple Order fees in Section I, Part A of the Pricing Schedule which apply to Select Symbols. Currently, the Exchange pays the following Simple Order Fees for Removing Liquidity: Customer $0.00 per contract and a Specialist,[5] Market Maker,[6] Firm, Broker-Dealer and Professional [7] $0.44 per contract. The Exchange proposes to amend the Simple Order Fees for Adding Liquidity by increasing Specialist, Market Maker, Firm, Broker-Dealer and Professional fees from $0.44 to $0.45 per contract. The Exchange proposes to continue to assess Customers no Fee for Removing Liquidity in Simple Orders.

Section II Amendments

The Exchange proposes to increase the Firm electronic Options Transaction Charge in Penny Pilot Options from $0.44 to $0.45 per contract. The Exchange also proposes to amend the Firm electronic Options Transaction Charge in Non-Penny Pilot Options from $0.45 to $0.50 per contract.

The Exchange proposes to waive the Firm Floor Options Transaction Charge for the buy side of a transaction if the Firm represents both sides of a Firm transaction when such members or its affiliates under Common Ownership [8] are trading in their own proprietary account.[9] The Firm Floor Options Transaction Charges in Penny Pilot and Non-Penny Options are $0.25 per contract. The Exchange also proposes to relocate another Firm Options Transaction Charges waiver for members executing facilitation orders pursuant to Exchange Rule 1064 when such members are trading in their own proprietary account (including FLEX and Cabinet Options Transaction Charges) to a new bullet on the Pricing Schedule and amend that text to clarify that the waiver applies to Floor Options Transaction Charges, which the Exchange proposes to capitalize for consistency. The Exchange also proposes to capitalize the terms ''Floor'' and ''Options Transaction Charge'' in Section II.

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act [10] in general, and furthers the objectives of Section 6(b)(4) of the Act [11] 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 increasing the Simple Order Fees For Removing Liquidity in Select Symbols from $0.44 to $0.45 per contract is reasonable because the fees will continue to remain

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The rebates and fees in Section I apply to certain Select Symbols which are listed in Section I of the Pricing Schedule. The Select Symbols are listed in Section I of the Pricing Schedule.

[4] The pricing in Section II includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed.

[5] A ''Specialist'' is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

[6] A ''Market Maker'' includes Registered Options Traders (Rule 1014(b)(i) and (ii)), which includes Streaming Quote Traders (*see* Rule 1014(b)(ii)(A)) and Remote Streaming Quote Traders (*see* Rule 1014(b)(ii)(B)). Directed Participants are also market makers.

[7] 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). *See* Rule 1000(b)(14).

[8] Common Ownership is defined as members or member organizations under 75% common ownership or control. *See* Preface to the Exchange's Pricing Schedule.

[9] This waiver does not apply to electronic transactions.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4).

competitive with fees assessed by other options exchanges.[12] The Exchange believes that increasing the Simple Order Fees For Removing Liquidity in Select Symbols from $0.44 to $0.45 per contract is equitable and not unfairly discriminatory because the Exchange would assess all market participants, except Customers, a $0.45 per contract Simple Order Fee for Removing Liquidity in Select Symbols. The Exchange proposes to assess no Simple Order Fee for Removing Liquidity to Customers because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants.

The Exchange believes that increasing the Firm Options Transaction Charge in Penny Pilot Options from $0.44 to $0.45 per contract reasonable because this fee is within the range of other fees in Section II of the Pricing Schedule. The Exchange currently assesses an electronic Broker-Dealer Firm Options Transaction Charge in Penny Pilot Options of $0.45 per contract. The Exchange believes that increasing the Firm Options Transaction Charge in Non-Penny Pilot Options from $0.45 to $0.50 per contract is reasonable because this fee is within the range of other fees in Section II of the Pricing Schedule. The Exchange currently assesses an electronic Broker-Dealer Firm Options Transaction Charge in Penny Pilot Options of $0.60 per contract. The Exchange generally assesses lower fees for Penny Pilot Options as compared to non-Penny Pilot Option because those securities are among the most actively traded and liquid options. This is the case today for Specialist, Market Maker and Broker-Dealer Fees.[13]

The Exchange believes that increasing the Firm Options Transaction Charge in Penny Pilot Options from $0.44 to $0.45 per contract and increasing the Firm Options Transaction Charge in Non-Penny Pilot Options from $0.45 to $0.50 per contract is equitable and not unfairly discriminatory for the reasons which follow. Firms will continue to be assessed a higher fee than a Customer who pays no fee to transact electronic Penny Pilot or Non-Penny Pilot Options. Customer order flow brings unique benefits to the market which benefits all market participants through increased liquidity. Firms will continue to be assessed higher fees than Specialists and Market Makers in electronic Penny Pilot Options [14] and Non-Penny Pilot Options [15] because Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants. They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The proposed differentiation as between Customers, Specialists and Market Makers and other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants, as well as the differing mix of orders entered. Broker-Dealers and Firms today pay higher fees as compared to a Professional for electronic Penny Pilot Options [16] and Non-Penny Pilot [17] transactions and this would not change. Professionals have access to more information and technological advantages as compared to Customers and Professionals do not bear the obligations of Specialists or Market Makers. Also, Professionals engage in trading activity similar to that conducted by Specialists or Market Makers. For example, Professionals continue to join bids and offers on the Exchange and thus compete for incoming order flow. For these reasons, the Exchange believes that Professionals may be priced higher than a Customer and may be priced equal to or higher than a Specialist or Market Maker. Finally, the Firm will be assessed fees which are equal to or lower than a Broker-Dealer. The Exchange believes that increasing the Firm electronic Penny Pilot and Non-Penny Options Transaction Charges does not misalign the current rate differentials between a Broker-Dealer and a Firm because the Exchange is eliminating the differential in electronic Penny Pilot Options and narrowing the differential from $0.15 to $0.10 per contract in electronic Non-Penny Pilot Options.

The Exchange believes that assessing higher electronic Firm Options Transaction Charges in both Penny Pilot ($0.45 per contract) and non-Penny Pilot Options ($0.50 per contract) as compared to a Firm Floor Options Transaction Charge in both Penny Pilot and non-Penny Pilot Options of $0.25 per contract is reasonable, equitable and not unfairly discriminatory because these fees recognize the distinction between the floor order entry model and the electronic model and the proposed fees respond to competition along the same lines.[18] Floor participants incur costs associated with accessing the floor, *i.e.* need for a floor broker, and other costs which are not born by electronic members. Today, the Exchange assesses different fees for electronic as compared to floor transactions for Professionals, Specialists and Market Makers, Broker-Dealers and Firms in Section II of the Pricing Schedule.

The Exchange believes that its proposal to waive the Firm Floor Options Transaction Charge for the buy side of a transaction if the same member or its affiliates under Common Ownership is both the buyer and seller of a Firm transaction when such members are trading in their own proprietary account is reasonable because the Exchange is proposing to not assess fees to both sides of that transaction in the instance where a Firm is moving positions within the Firm and is both the buyer and the seller. For example, a Firm on the Exchange's trading floor may determine to move positions within the Firm and today the transaction results in an Options Transaction Charge to both sides of the trade. The Exchange believes as long as the Firm is the buyer and seller for a trade in the Firm's proprietary account, it is reasonable to apply only one Options Transaction Charge.

The Exchange believes its proposal to waive the Firm Floor Options Transaction Charge for the buy side of a transaction if the same member or its affiliate under Common Ownership is both the buyer and seller of a Firm transaction when such members are trading in their own proprietary account

[12] NYSE Arca, Inc. assesses Customers, Firms, Broker-Dealers, Lead Market Maker and NYSE Arca Market Makers a $0.45 take fee for electronic executions in Penny Pilot Issues. *See* NYSE Arca, Inc.'s Fee Schedule.

[13] The Exchange assesses Specialists and Market Makers an electronic Options Transaction Charge in Penny Pilot Options of $0.22 per contract and an electronic Options Transaction Charge in non-Penny Pilot Options of $0.23 per contract. The Exchange assesses Broker-Dealers an electronic Options Transaction Charge in Penny Pilot Options of $0.45 per contract and an electronic Options Transaction Charge in non-Penny Pilot Options of $0.60 per contract.

[14] Specialists and Market Makers are assessed Floor Penny Pilot Options Transaction Charges of $0.22 per contract and Floor Non-Penny Pilot Options Transaction Charges of $0.23 per contract.

[15] Specialists and Market Makers are assessed electronic Non-Penny Pilot Options Transaction Charges of $0.23 per contract.

[16] Professionals are assessed electronic Penny Pilot Options Transaction Charges of $0.30 per contract.

[17] Professionals are assessed electronic Non-Penny Pilot Options Transaction Charges of $0.30 per contract.

[18] A transaction resulting from an order that was electronically delivered utilizes Phlx XL. *See* Exchange Rules 1014 and 1080. Electronically delivered orders do not include orders transacted on the Exchange floor. A transaction resulting from an order that is non-electronically-delivered is represented on the trading floor by a floor broker. *See* Exchange Rule 1063. All orders will be either electronically or non-electronically delivered.

is equitable and not unfairly discriminatory because the Exchange intends to apply the waiver uniformly to all Firms that trade in this manner in their proprietary account, even if certain members and chose to operate under separate entities.

The Exchange believes that the amendment to relocate the sentence referencing the waiver of the Firm Options Transaction Charges for members executing facilitation orders pursuant to Exchange Rule 1064 when such members are trading in their own proprietary account (including FLEX and Cabinet Options Transaction Charges) to a new bullet on the Pricing Schedule, amending the rule text to clarify that the waiver applies to Floor Options Transaction Charges, and capitalizing the words ''Options Transaction Charges'' are reasonable, equitable and not unfairly discriminatory. The Exchange is not proposing to amend the application of the waiver, but believes that grouping the Firm waivers separately in a new bullet on the Pricing Schedule, capitalizing terms for consistency in Section II and clarifying that the waiver is a floor waiver will prevent confusion among market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive market, comprised of eleven exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or rebates to be inadequate. Accordingly, the fees that are assessed and the rebates paid by the Exchange described in the above proposal are influenced by these robust market forces and therefore must remain competitive with fees charged and rebates paid by other venues and therefore must continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than competing venues.

The Exchange believes that increasing the Simple Order Fees for Removing Liquidity in Select Symbols and Firm Options Transaction Charges in Penny and Non-Penny Pilot Options does not impose a burden on competition. The fees proposed herein are consistent with fees on other options exchanges and other fees assessed by Phlx.[19] In addition, the Exchange believes that the increase to the Simple Order Fees for Removing Liquidity will impose the same fees on all members, except Customers. Customer order flow brings liquidity to the market and benefits all market participants.

With respect to the increase to the Firm Fees, the Exchange believes that those fee increases do not misalign the current rate differentials as between market participants, but serves to narrow or eliminate in the case of Firm Penny Pilot Options the fee differential. In addition, the Exchange is offering Firms an opportunity to eliminate Options Transaction Charges by encouraging Firms to take liquidity. The Exchange believes that the proposed rule change will continue to promote competition on the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[20] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2013–31 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–2013–31. 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–Phlx–2013–31 and should be submitted on or before April 17, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–07011 Filed 3–26–13; 8:45 am]

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[19] *See* NYSE Arca, Inc.'s Fee Schedule and Section II of the Phlx Pricing Schedule.

[20] 15 U.S.C. 78s(b)(3)(A)(ii).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69203; File No. SR–CBOE–2013–032]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to an Order Router Subsidy Program for Complex Orders

March 21, 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 8, 2013, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to enter into subsidy arrangements with any CBOE Trading Permit Holder or Non-CBOE Trading Permit Holder broker-dealer that provide certain order routing functionalities with respect to complex orders [3] to other CBOE Trading Permit Holders, Non-CBOE Trading Permit Holders and/or use such functionalities themselves.

The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

On April 5, 2007, CBOE established the Order Router Subsidy Program (the ''ORS Program'') which allows CBOE to enter into subsidy arrangements with CBOE Trading Permit Holders (''TPHs'') that provide certain order routing functionalities to other CBOE TPHs and/or use such functionalities themselves.[4] The Exchange later extended this program to enable CBOE to establish such subsidy arrangements with broker-dealers that are not CBOE TPHs and to permit participating CBOE TPHs and participating non-CBOE TPHs to receive subsidy payments for providing order routing functionality to broker-dealers who are not CBOE TPHs.[5] Specifically, CBOE TPHs and non-CBOE TPHs who enter into such subsidy arrangements receive a payment from CBOE for every executed contract for orders routed to CBOE through their system. Currently, the ORS Program permits subsidy payments with respect to simple, non-complex orders only. The Exchange now proposes to establish the Complex Order Router Subsidy Program (the ''CORS Program'' or ''Program''), which is a similar program but would permit subsidy payments with respect to complex orders only. Specifically, the CORS Program would permit CBOE to enter into subsidy arrangements with any CBOE TPH (each, a ''Participating TPH'') or Non-CBOE TPH broker-dealer (each a ''Participating Non-CBOE TPH'') that provide certain order routing functionalities with respect to complex orders [6] to other CBOE TPHs, Non-CBOE TPHs and/or use such functionalities themselves. (The term ''Participant'' as used in this filing refers to either a Participating TPH or a Participating Non-CBOE TPH). The purpose of this proposed change is to incentivize the sending of complex orders to the Exchange.

To qualify for the complex order subsidy arrangement, a Participant's order routing functionality would have to be capable of interfacing with CBOE's API to access current CBOE trade engine functionality and must be configured to cause CBOE to be the default destination exchange for complex orders, but allow any user to manually override CBOE as the default destination on an order-by-order basis. Any CBOE TPH or broker-dealer that is not a CBOE TPH would be permitted to avail itself of this arrangement, provided that its order routing functionality incorporates the features described above and it signs an agreement agreeing to abide by the provisions of the Program. Additionally, Participants must satisfy CBOE that their order routing functionality appears to be robust and reliable. The Participant would be solely responsible for implementing and operating its system.

CBOE is proposing to make payments to Participants for every executed contract for complex orders routed to CBOE through that Participant's system to subsidize their costs associated with providing order routing functionalities for complex orders. The payment would be $0.04 per executed contract of each leg [7] for complex orders routed to CBOE through a Participant's system. The Exchange notes that the amount of the subsidy payment per executed contract for complex orders will be the same as the subsidy payment per executed contract for simple, non-complex orders under the ORS Program. The Participants would have to agree that they are not entitled to receive any other revenue for the use of their system, specifically with respect to complex orders routed to CBOE.[8] Participants

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] For purposes of the ORS [sic] Program, a ''complex order'' shall have the definition set forth in the first sentence of CBOE Rule 6.53C(a)(1) which reads ''[a] ''complex order'' is any order involving the execution of two or more different options series in the same underlying security occurring at or near the same time in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) (or such lower ratio as may be determined by the Exchange on a class-by-class basis) and for the purpose of executing a particular investment strategy.''

[4] *See* Securities Exchange Act Release No. 55629 (April 13, 2007), 72 FR 19992 (April 20, 2007) (SR–CBOE–2007–034). Additionally, the description of the current program was clarified in SR–CBOE–2008–27. *See* Securities Exchange Act Release No. 57498 (March 14, 2008), 73 FR 15018 (March 20, 2008) (SR–CBOE–2008–27).

[5] *See* Securities Exchange Act Release No. 63631 (January 3, 2011), 76 FR 1203 (January 7, 2011) (SR–CBOE–2010–117).

[6] For purposes of the CORS Program, a ''complex order'' shall have the definition set forth in the first sentence of CBOE Rule 6.53C(a)(1) which reads ''[a] ''complex order'' is any order involving the execution of two or more different options series in the same underlying security occurring at or near the same time in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) (or such lower ratio as may be determined by the Exchange on a class-by-class basis) and for the purpose of executing a particular investment strategy.''

[7] For example, if a complex order to buy ten March 50 call options and to sell ten March 55 call options were executed, the transaction would count as 20 contracts for calculating the fee payable to Participant.

[8] This requirement would not prevent the Participant from charging fees (for example, a flat monthly fee) for the general use of its order routing system. Nor would it prevent the Participant from charging fees or commissions in accordance with its

Continued

would not be precluded, however, from receiving payment for order flow if they choose to do so. Any CBOE TPH or broker-dealer that is not a CBOE TPH would be permitted to avail itself of both this arrangement and the arrangement under the ORS Program, so long as its order routing functionality incorporates the features required under the CORS Program and the features required under the ORS Program.

The Exchange notes that the proposed CORS Program is substantially similar to the current ORS Program. One notable difference however, is that Participants in the ORS Program are required to incorporate a function allowing orders at a specified price to be sent to multiple exchanges with a simple click (''sweep function'') and the sweep function needs to be configured to cause an order to be sent to CBOE for up to the full size quoted by CBOE if CBOE is at the NBBO. Unlike simple, non-complex orders, there is no NBBO for complex orders and an exception from the prohibition on trade-throughs is provided for any transaction that was effected as a portion of a complex order.[9] Therefore, the sweep function required under the ORS Program for simple, non-complex orders would not be applicable to complex orders and accordingly is not required under the CORS Program. Additionally, Participants under the CORS Program would not be required to enable the electronic routing of orders to all of the U.S. options exchanges or provide current consolidated market data from the U.S. options exchanges. The Exchange notes that this requirement would not make sense in the CORS Program as some options exchanges do not offer complex order execution systems. The Exchange also notes that the optional Marketing Service Election and Billing Election under the ORS Program would not be available under the CORS Program.

Finally, nothing in the proposed subsidy arrangement relieves any CBOE TPH or non-CBOE TPH broker-dealer that is using an order routing functionality whose provider is participating in the CORS Program from complying with its best execution obligations. Just as with any customer order and any other routing functionality, both a CBOE TPH and a non-CBOE TPH broker dealer have an obligation to consider the availability of price improvement at various markets and whether routing a customer order through a functionality that incorporates the features described above would allow for access to such opportunities if readily available. Moreover, any user, whether or not a CBOE TPH, needs to conduct best execution evaluations on a regular basis, at a minimum quarterly, that include its use of any router incorporating the features described above.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (''Act''), in general. Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[10] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities. In particular, the proposed adoption of a subsidy payment program for complex orders is reasonable because it affords Participants an opportunity to receive payments to subsidize the costs associated with providing certain order routing functionalities. The Exchange believes that limiting the subsidy payment to those that provide complex order routing functionalities is equitable and not unfairly discriminatory because the Participants of the Program have devoted resources to provide the order routing functionalities. The proposed change further encourages CBOE TPHs and broker-dealers that are not CBOE TPHs to provide complex order routing functionalities. Limiting the Program to complex orders is reasonable because a similar program already exists for simple, non-complex orders. Moreover, the proposed complex order subsidy amount is the same amount as already exists for simple, non-complex orders under the ORS Program.

In addition, the Exchange believes that this proposed change is equitable and not unfairly discriminatory because any CBOE TPH or broker-dealer that is not a CBOE TPH may avail itself of this arrangement, provided that its complex order routing functionality incorporates the requirements set forth above. Finally, the proposed change incentivizes the sending of more complex orders to the Exchange. This increased liquidity creates greater trading opportunities that benefit all market participants, including market participants who send only simple orders to the Exchange (as simple orders can trade with the legs of complex orders).

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change will impose an unnecessary burden on intramarket competition because it will apply equally to all participating parties. Although the subsidy for complex orders routed to CBOE through a Participant's system only applies to Participants of the Program, the subsidy for complex orders is designed to encourage the sending of more complex orders to the Exchange, which should provide greater liquidity and trading opportunities for all market participants. This includes market participants who send simple orders to the Exchange (as simple orders can trade with the legs of complex orders).

Further, the Exchange does not believe that such change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that, should the proposed changes make CBOE more attractive for trading, market participants trading on other exchanges can always elect to provide order routing functionality to CBOE for complex orders. Additionally, to the extent that subsidy payments for complex orders under the CORS Program may result in increased trading volume on CBOE and lessened volume on other exchanges, the Exchange notes that market participants trading on other exchanges can always elect to become TPHs on CBOE to take advantage of the trading opportunities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and paragraph (f) of Rule 19b–4 [12] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

general practices with respect to transactions effected through its system.

[9] *See* CBOE Rule 6.81(b)(7).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b-4(f).

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 will institute proceedings 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–CBOE–2013–032 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2013–032. 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–CBOE–2013–032, and should be submitted on or before April 17, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–07010 Filed 3–26–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69200; File No. SR–CBOE–2013–031]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Equity Rights Program of CBSX

March 21, 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 7, 2013, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to modify an equity rights program of CBOE Stock Exchange, LLC (''CBSX'').[3] There are no proposed changes to the rule text.

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 Program is to promote the long-term interests of CBSX by providing incentives designed to encourage current and future CBSX owners and market participants to contribute to the growth and success of CBSX, by being active liquidity providers and takers to provide enhanced levels of trading volume to CBSX's market, through an opportunity to increase their proprietary interests in CBSX's enterprise value.

Under the Program, in exchange for providing order flow to CBSX, a participant may earn EPE Units representing the right to acquire Series B Shares of CBSX pursuant to the terms of the Program. Under the Program, a participant may earn up to the number of EPE Units that would constitute, upon conversion, up to an aggregate of 19.99% of then-outstanding CBSX equity (''Earn-Out Percentage''). EPE Units may be earned based on a participant's trading activity in the initial three years of the Program (''Measurement Period One'') and in years three[4] [sic] through five of the Program (''Measurement Period Two''). EPE Units are earned and issued on the day following the end of the applicable Measurement Period.

A participant will be eligible to earn EPE Units in Measurement Period One provided that the participant is a Trading Permit Holder (''TPH'') in good standing of CBSX, and that the participant has achieved ''MADV'' during that period. ''MADV'' means a ''minimum average daily volume'' of executions by the participant at CBSX that equals at least 0.25% of ''TCAV.'' ''TCAV'' means the ''total consolidated average daily trading volume'' of all NMS stocks as disseminated pursuant to an effective national market system plan during the applicable Measurement Period, less a 3% downward adjustment for trades in quantities below 100 shares (odd-lot trades).[5] Upon achieving the

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[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] CBSX is a stock trading facility of the Exchange.

[4] Commission staff confirmed on a conference call with CBOE staff that Measurement Period Two consists of years 4 and 5 of the Program. Conference call between Tina Barry, Senior Special Counsel, Division of Trading and Markets, Commission, and Laura Dickman, Attorney, CBOE, on March 12, 2013.

[5] Currently, odd-lot trades are not disseminated under national market system (''NMS'') plans and thus are not included in total consolidated trading

Continued

MADV, a participant will receive EPE Units in an amount equal to an Earn-Out Percentage of 1.4%. For each 0.01% contribution of TCAV above MADV, the participant's Earn-Out Percentage will increase 0.16% (up to a maximum of the Measurement Period One Cap, as defined below). For example, if a participant achieves 0.25% of TCAV during Measurement Period One, the participant will receive an Earn-Out Percentage of 1.4%. If the participant achieves 0.26% of TCAV during Measurement Period One, the participant will receive an Earn-Out Percentage of 1.56%. This would continue up to the Measurement Period One Cap. Participants will not earn any EPE Units if they do not achieve MADV during Measurement Period One. Notwithstanding the foregoing, in the event of a liquidity event occurring in the first year of Measurement Period One, the Earn-Out Percentage may not exceed 7.5%.

A participant will be eligible to earn EPE Units in Measurement Period Two provided that the participant is and remains a TPH in good standing of CBSX and that the participant achieved the MADV in Measurement Period One. Participants will not earn any EPE Units during Measurement Period Two if their contributions of TCAV are less than or equal to the MADV. For each 0.01% contribution of TCAV above MADV in Measurement Period Two, the participant will receive an EPE Unit Earn-Out 0.058706% up to a maximum of the Measurement Period Two Cap (as defined below). For example, if a participant achieves MADV during Measurement Period Two, the participant will earn no EPE Units. If the participant achieves 0.26% of TCAV during Measurement Period Two, the participant will receive an Earn-Out Percentage of 0.058706%. If the participant achieves 0.27% of TCAV during Measurement Period Two, the participant will receive an Earn-Out Percentage of 0.117412%. This would continue up to the Measurement Period Two Cap.

As mentioned above, certain caps apply under the Program. In Measurement Period One, a participant may earn a maximum Earn-Out Percentage of 15% (the ''Measurement Period One Cap''). In Measurement Period Two, a participant may earn a maximum Earn-Out Percentage of 4.99% (the ''Measurement Period Two Cap'' and, together with the Measurement Period One Cap, the ''Participant Cap''). In addition, no additional EPE Units may be earned or issued under the Program if those additional EPE Units, together with the EPE Units outstanding at the time, would be convertible into Series B Shares representing more than a 33% percentage interest of then-outstanding CBSX equity (the ''Program Cap''). Any awards otherwise in excess of the Program Cap will be reduced among participants on a pro-rata basis.

EPE Units may be converted to Series B Shares upon a ''Conversion Event.'' A Conversion Event includes (i) a transfer of a majority of the outstanding voting shares of CBSX to a third party and certain other liquidity events, (ii) in the event that during any six month period during Measurement Period One the trading volume on CBSX equals at least 3% of TCAV, (iii) the expiration of Measurement Period Two, or (iv) the termination of the Program. Until the conversion of the EPE Units upon the occurrence of a Conversion Event, the EPE Units will not entitle the holder thereof to any voting, allocation or distribution rights or any share of the income, gain, loss, deduction or other tax attributes or assets of CBSX, or any rights to participate as a CBSX owner in any way. The Series B Shares issuable upon conversion of EPE Units as a result of a Conversion Event will entitle the holder thereof to all of the rights, benefits, privileges and obligations then applicable under the Third Amended and Restated Operating Agreement of CBSX, dated as of December 30, 2011, as amended from time to time (the ''Operating Agreement'') to outstanding Series B Shares and the holder will become an owner with respect to the Series B Shares issued upon conversion. Upon the occurrence of a Conversion Event, EPE Units earned by a participant will, at participant's election, convert into Series B Shares.

With respect to any or all Series B Shares and/or EPE Units held by a participant, CBSX will have the right to purchase from the participant up to all of the participant's Series B Shares or EPE Units at a price based on a valuation provided by an independent third party agreed upon by CBSX and the participant (the ''Independent Auditor''). CBSX may exercise its call right at any time, in CBSX's sole discretion, after Measurement Period Two. CBSX may exercise its call right no more than one (1) time with respect to any participant.

With respect to any or all Series B Shares held by a participant that have been earned under the Program, the participant will have the right to sell to CBSX up to all of the participant's Series B Shares so earned at a price based on a valuation provided by the Independent Auditor. A participant may exercise its put right at any time, in the participant's sole discretion, after two years after the occurrence of a Conversion Event, provided that (i) No more than 20% of the participant's ownership (as of the date of the first put exercise) may be put in any 12-month period; (ii) CBSX may limit the participant's exercise of the put right in any given period to the extent necessary to preclude the Independent Auditor from issuing an opinion that raises substantial doubt about CBSX's ability to continue as a going concern for the subsequent 12 months; and (iii) exercise of the put right will in all respects remain subject to the terms and conditions of Section 1.8 of the Operating Agreement.[6] The costs of the Independent Auditor's valuation and going concern assessment will be borne solely by the participant(s) seeking to exercise the put right.

All CBSX Series B Owners at the date of effectiveness of the Program, and any subsequent Series B Owner that purchases Series B Shares in an amount equaling 0.01% percentage interest[7]

volume of NMS stocks. Based on industry discussions, CBSX expects that within the next year, NMS plans will require exchanges to report odd-lot trades to the tape under those plans. Pursuant to data that CBSX received from the Consolidated Tape Association (CTA) and Consolidated Quotation (CQ) Plans, as well as the OTC/UTP Plan (the two national market system plans for reporting stock trades), if odd-lot trades were reported to the tape, then the volume of larger exchanges (e.g. NYSE, NASDAQ) would increase by approximately 5%, which would cause total consolidated trading volume of NMS stocks to increase close to that amount. However, the volume of CBSX would increase by approximately 1.5% to 2.0%. The increase in total consolidated trading volume would thus be skewed against and much higher than the increase in volume on CBSX. The purpose of the 3% adjustment to total consolidated trading volume is to address this bias. CBSX believes the Program would make it unnecessarily more difficult to achieve MADV without the adjustment, as the amount of odd-lot trading on CBSX would not offset the amount of the total consolidated trading volume increases.

[6] Section 1.8 of the Operating Agreement provides that notwithstanding anything otherwise contained in the Operating Agreement to the contrary, so long as CBSX is a facility of CBOE, in the event that CBOE, in its sole discretion, determines that any action, transaction or aspect of an action or transaction, is necessary or appropriate for, or interferes with, the performance or fulfillment of CBOE's regulatory functions, its responsibilities under the Act or as specifically required by the Committee, (i) CBOE's affirmative vote will be required to be included in order to constitute a super majority vote of the owners,'' (ii) without CBOE's affirmative vote no such action, transaction or aspect of an action or transaction will be authorized, undertaken or effective, and (iii) CBOE will have the sole and exclusive right to direct that any required, necessary or appropriate act, as it may determine in its sole discretion, to be taken or transaction be undertaken by or on behalf of CBSX without regard to the vote, act or failure to vote or act by any other party in any capacity.

[7] Section 3.2 of the Operating Agreement provides that the Board may issue Series B Shares to new

and otherwise qualifies for Program participation during an Enrollment Period, may request designation as a participant under the Program. ''Enrollment Period'' means a period of time designated by the Board from time to time to allow interested qualifying parties to enroll in the Program and satisfy the eligibility criteria required of Program participants. In addition, to be designated as a participant, an applicant must: (i) Be a TPH in good standing of CBSX; (ii) qualify as an ''accredited investor'' as such term is defined in Regulation D of the Securities Act of 1933; [8] and (iii) have executed all required documentation for Program participation. All applicants will be subject to the same eligibility and designation criteria, and all Participants will participate in the Program on the same terms, conditions and restrictions.

As discussed above, the purpose of the Program is to encourage TPHs to direct greater trade volume to CBSX to enhance trading volume in CBSX's market. Increased volume will provide for greater liquidity and enhanced price discovery, which benefits all market participants. Other exchanges currently engage in the practice of incentiving increased order flow in order to attract liquidity providers through equity sharing arrangements.[9] The Program similarly intends to attract order flow, which will increase liquidity, thereby providing greater trading opportunities and tighter spreads for other market participants and causing a corresponding increase in order flow from these other market participants. The Program will similarly reward the liquidity providers that provide this additional volume with a potential proprietary interest in CBSX.

The specific volume thresholds of the Program's Measurement Periods were set based upon business determinations and an analysis of current volume levels. The volume thresholds are intended to incentive firms to increase the number of orders that are sent to CBSX to achieve the next threshold. Increasing the number of orders that are sent to CBSX will in turn provide tighter and more liquid markets, and therefore attract more business overall.

CBSX currently intends to initiate an Enrollment Period, and thereafter commence Measurement Period One on a date determined by CBSX after effectiveness of the instant rule filing. CBSX will notify TPHs of the implementation of the Program and the dates of the Enrollment Period by regulatory circular, and will post a copy of this rule filing on its Web site. Any CBSX TPH that is interested in participating in the Program may contact CBSX for more information and legal documentation and will be required to enter into a nondisclosure agreement regarding this additional program information.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[10] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [11] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[12] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[13] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its TPHs and other persons using its facilities.

In particular, the proposed rule change is equitable and not unfairly discriminatory, because all TPHs may elect to participate (or elect to not participate) in the Program and earn EPE Units on the same terms and conditions, assuming they satisfy the same eligibility criteria as described above. The eligibility criteria are objective; thus, all TPHs have the ability to satisfy them. The Board also has authorized CBSX to issue Series B Shares to any TPH that requests designation to participate in the Program and otherwise satisfies the eligibility criteria to ensure that all TPHs will have the opportunity to own Series B Shares and thus participate in the Program if they so choose. In addition, participants will receive Earn-Out Percentages based on fixed volume thresholds that will apply to all participants. The Exchange believes the Program is equitable and reasonable because an increase in volume and liquidity would benefit all market participants by providing more trading opportunities and tighter spreads, even to those market participants that do not participate in the Program. Additionally, the Exchange believes the proposed rule change is consistent with the Act because, as described above, the Program is designed to bring greater volume and liquidity to CBSX, which will benefit all market participants by providing tighter quoting and better prices, all of which perfects the mechanism for a free and open market and national market system.

Given the robust competition for volume among equity markets, many of which offer the same products, implementing a program to attract orders like the one being proposed in this filing is consistent with the above-mentioned goals of the Act. This is especially true for the smaller equity markets, such as CBSX, which is competing for volume with much larger exchanges that dominate the equity trading industry. CBSX has a trading volume of less than 1% of total consolidated trading volume, so it is unlikely that the Program could cause any competitive harm to the equity market or to market participants, even though the Program is offering equity rights to participants in exchange for participants' provision of liquidity. The Program is a modest attempt by a small equity market to attract order volume away from larger competitors by adopting an innovative pricing strategy, as evidenced by the volume thresholds of the Program that represent fractions of 1% of TCAV. In support of this, the

Owners in its sole discretion, up to 0.01% of then-outstanding CBSX equity. In connection with the approval of the Program, the Board authorized issuance of 0.01% of Series B Shares to any TPH that requests to participate in the Program and satisfies the other eligibility criteria for the Program, as described in this filing.

[8] The purpose of this criterion relates to the ability of CBSX to sell Series B Shares pursuant to an exemption from registration under the Securities Act of 1933. The definition of ''accredited investor'' under Rule 501(a)(1) of the Act includes any broker or dealer registered pursuant to Section 15 of the Act. CBOE Rules 3.2(a)(ii) and 3.3(a)(ii) require a TPH to be registered as a broker or dealer pursuant to Section 15 of the Act, so all CBSX TPHs will satisfy this criterion.

[9] *See, e.g.,* Securities Exchange Act Release No. 34–62358 (June 22, 2010), 75 FR 37861 (June 30, 2010) (SR–NSX–2010–006) (order approving National Stock Exchange, Inc. equity rights program [sic]); and Securities Exchange Act release No. 64742 (June 24, 2011), 76 FR 38436 (June 30, 2011) (SR–NYSEAmex–2011–018) (order approving NYSE Amex LLC (now NYSE MKT LLC) options facility, including a volume-based equity plan).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] *Id.*

[13] 15 U.S.C. 78f(b)(4).

Exchange notes that, unless there is a liquidity event or the Program terminates, participants may only convert their EPE Units earned during Measurement Period One to Series B Shares if there is a six-month period during which the trading volume on CBSX equals at least 3% of TCAV. While such percentage of TCAV would represent a large volume increase for CBSX, it would represent a minimal reduction in volume of its larger competitors in the industry.

The Exchange notes that access to exchange quotes is also more efficient than ever and helps to promote price transparency and competition among exchanges for order flow. Orders are processed and executed electronically in milliseconds, and markets are more open to new users than ever before. Order routers can simultaneously view and execute orders at the exchange with the lowest transaction fees when more than one exchange has, or may match, the best price. When more than one exchange is displaying the best price (which is often the case), brokers often assign lowest priority in their order routing tables to the exchange with the highest transaction fees (or lowest rebates). This means that if an exchange sets high fees (or low rebates), it risks losing business to exchanges with lower fees (or higher rebates)—the same competitive pressure used by our free markets every day to constrain price. Plus, broker-dealers, who have accepted responsibility for handling orders on behalf of customers, are monitoring displayed quotes. They are typically more sophisticated and better-informed market participants than customers in non-financial markets, and therefore are better able to make the types of decisions that will produce efficient markets and constrain prices. Equity markets have different pricing models based on their competitive assessment of the incentives that will best attract order flow and liquidity. This competition has helped to exert competitive pressure on the exchanges' fee structure. The Exchange believes that the Program will help further competition, because market participants will have yet another option in determining where to execute orders and post liquidity if they factor the benefits of CBSX equity participation into the determination.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. CBOE believes that the proposed rule change will improve competition by providing market participants with another option when determining where to execute orders and post liquidity. See additional discussion above under ''Statutory Basis'' regarding the proposed rule change's impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [14] and paragraph (f) of Rule 19b–4 [15] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings 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–CBOE–2013–031 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2013–031. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2013–031 and should be submitted on or before April 17, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–07007 Filed 3–26–13; 8:45 am]

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[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69198; File No. SR–NYSEMKT–2013–29]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Definition of Complex Orders, Complex Trades and Stock/Options Orders To Accommodate the Trading of Option Contracts Overlying 10 Shares of a Security

March 20, 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] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

19, 2013, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I 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 change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the definition of Complex Orders, Complex Trades and Stock/Options orders to accommodate the trading of option contracts overlying 10 shares of a security (''mini-options contracts''). The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently amended its rules to allow for the listing of mini-options contracts on SPDR S&P 500 (''SPY''), Apple, Inc. (''AAPL''), SPDR Gold Trust (''GLD''), Google Inc. (''GOOG'') and Amazon.com Inc. (''AMZN'').[4] Whereas standard option contracts represent a deliverable of 100 shares of an underlying security, mini-options contracts represent a deliverable of 10 shares. Except for the difference in the number of deliverable shares, mini-options contracts have the same terms and contract characteristics as regular-sized equity and ETF options, including exercise style. The Exchange notes that Exchange rules that apply to the trading of standard option contracts would apply to mini-option contracts as well.

Prior to the commencement of trading mini-options, the Exchange proposes to amend Rule 900.3NY (Orders Defined) and Rule 990NY (Definitions Related to Order Protection and Locked and Crossed Markets) to provide that Exchange rules regarding complex orders shall apply to mini-options and that consequently, ATP Holders may execute complex orders and Stock/Option Orders involving mini-options contracts. Moreover, the Exchange seeks to amend these rules to provide that all permissible ratios referenced in the definitions of Stock/Option Orders represent the total number of shares of the underlying stock in the option leg to the total number of shares of the underlying stock in the stock leg. Finally, the Exchange seeks to make these amendments to coincide with a similar proposal recently submitted by another options market.[5]

Exchange Rule 900.3NY governs Complex Orders and Stock/Options Orders on the Exchange and Rule 990NY lists definitions applicable to intermarket linkage. Currently, a Stock/Option Orders are defined in Rule 900.3NY(h)(1) and Rule 990NY(4)(ii) as an order to buy or sell a stated number of units of an underlying stock or a security convertible into the underlying stock coupled with the purchase or sale of options contract(s) on the opposite side of the market representing either (A) the same number of units of the underlying stock or convertible security, or (B) the number of units of the underlying stock necessary to create a delta neutral position, but in no case in a ratio greater than 8 options contracts per unit of trading of the underlying stock or convertible security established for that series by the Clearing Corporation. Therefore, under this definition it would be permissible to execute, for example, a trade where the options leg consists of one (1) standard option contract (i.e., 100 shares) and the stock leg consists of 100 shares of the underlying stock. Additionally, it would be permissible to execute a trade where the options leg consists of eight (8) standard option contracts (i.e., 800 shares) and the stock leg consists of 100 shares of the underlying stock.

The terms Complex Order in Rule 900.3NY(e) and Complex Trade in Rule 990NY(4)(i) are defined substantially identical as any order involving the execution of two or more different options series in the same underlying security occurring at or near the same time in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00).

The Exchange notes that the abovementioned permissible ratios were established to ensure that only complex and Stock/Option orders that seek to achieve legitimate investment strategies are afforded certain benefits. Particularly, since compliance with trade-through rules may impede a market participant's ability to achieve the legitimate investment strategies that complex and Stock/Option orders facilitate, an exception from the prohibition on trade-throughs is provided for any transaction that was effected as a portion of a legitimate complex and Stock/Option order. Requiring a meaningful relationship between the different legs of a complex or Stock/Option order prevents market participants from taking advantage of these orders to circumvent the otherwise applicable trade-through rules (e.g., preventing the execution of a Stock/Option Order where the option leg consists of 100 options (i.e., 10,000 shares) and the stock leg consists of only 100 shares).

The Exchange proposes to amend the definition of Stock/Option Orders in Rule 900.3NY(h)(1) and Rule 990NY(4)(ii). As discussed above, the Stock/Option Order definition in both Rule 900.3NY and Rule 990NY clearly permits that an option leg may be coupled with a stock leg representing the same number of units of the underlying stock (i.e., one-to-one ratio). The Exchange seeks to provide that mini-options contracts may also be coupled with a stock leg if the stock leg represents the same number of units of the underlying stock. For example, pursuant to the definition, it would be permissible to execute a trade where leg one consists of one (1) mini-option contract (i.e., 10 shares) and leg two consists of 10 shares of the underlying stock.

Next, the Exchange seeks to amend the Stock/Option Order definition in Rule 900.3NY and Rule 990NY to provide that in addition to standard options, mini-options contracts may be coupled with a stock leg consisting of however many units of the underlying stock is necessary to create a delta neutral position, provided that the total number of shares of the underlying stock in the option leg to the total number of shares of the underlying stock in the stock leg does not exceed an eight-to-one ratio. The proposed change specifies that the permissible ratios should be calculated and scaled based upon the total number of *shares of the underlying stock* in the option leg

[4] *See* Securities Exchange Act Release No. 69131 (March 13, 2013) (SR–NYSE MKT–2013–23).

[5] *See* Securities Exchange Act Release No. 34–69129 (March 13, 2013) (SR–CBOE–2013–33).

to the total number of shares of the underlying stock in the stock leg, instead of by the total number of option contracts in the option leg to the total number of shares of the underlying stock in the stock leg. An example of a permitted Stock/Option Order involving mini-options contracts would be an order in which leg one consists of eighty (80) mini-options contracts (i.e., 800 shares) and leg two consists of 100 shares of the underlying stock (i.e., eight-to-one ratio). Similarly, an order where leg one consists of eight (8) mini-options contracts (i.e., 80 shares) and leg two consists of 10 shares of the underlying stock would be permitted.

The proposed rule change provides that market participants may execute complex and Stock/Option orders involving mini-options contracts. The proposed change also ensures that the principle behind the permissible ratios (i.e., to provide a meaningful relationship between the legs of complex and Stock/Option Orders) is maintained for mini-options contracts.

The Exchange also proposes to amend the definition of Complex Order and Complex Trade to specify that when trading a Complex Order/Complex Trade that is comprised of both mini-options contracts and standard contracts, ten mini-options contracts will represent one standard contract. The Exchange seeks to make clear that the current definition of Complex Order in Rule 900.3NY(e) and Complex Trade in Rule 990NY(4)(i) applies to both standard options and mini-options. The Exchange acknowledges that in accordance with the provisions of Rules 900.3NY(e) and 990NY(4)(i), one leg of a complex order may consist of mini-options contract(s) and the other leg of the order may consist of standard options contract(s), so long as the underlying security is the same and the transaction does not violate the permissible ratios set forth in the rules (i.e. ratio greater or equal to one-to-three or less or equal to three-to-one). Moreover, the Exchange's proposed amendment seeks to provide that the permissible ratios represent the total number of shares of the underlying stock in the mini-option leg to the total number of shares of the underlying stock in the standard option leg. An example of a permissible complex order involving mini-options and standard options would be an order in which leg one consists of thirty (30) mini-options (i.e. 300 shares) and leg two consists of one (1) standard options (i.e. 100 shares) in the same underlying security (i.e., a ratio equal to 3.0). Another example of a permissible complex order would be an order in which leg one consists of ten (10) mini-options (i.e. 100 shares) and leg two consists of one (1) standard options (i.e. 100 shares) in the same underlying security (i.e., a ratio equal to one-to-one). The Exchange believes the proposed amendment will reduce potential confusion for investors when trading mini-options contracts. Further, the Exchange proposes to provide that Complex Orders comprised of both mini-options contracts and standard contracts are not available for Electronic Complex Order trading pursuant to Rule 980NY.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[6] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5),[7] in particular, because it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest.

Specifically, the Exchange believes that investors and other market participants would benefit from the current rule proposal because it would allow market participants to take advantage of legitimate investment strategies and execute complex and Stock/Option orders in mini-options contracts. Additionally, the Exchange believes the proposed rule change will avoid investor confusion if both standard options and mini-options on the same underlying security are permitted to trade as complex and Stock/Option orders. Also, the proposal to maintain the permissible ratios that are applicable to standard options in proportion for mini-options contracts ensures that the principle behind the permissible ratios (i.e., to provide a meaningful relationship between the legs of complex and Stock/Option orders) is maintained for mini-options, which promotes just and equitable principles of trade. The Exchange believes that describing prior to the commencement of trading how the permissible ratios in complex and Stock/Option orders rules will be scaled for mini-options contracts would lessen investor and marketplace confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In particular, the proposed amendment is based upon recently published rule amendments by other option exchanges.[8] Since mini-options contracts are permitted on multiply-listed classes, other exchanges that have received approval to trade mini-options will have the opportunity to similarly amend their rules to clarify and accommodate complex and Stop/Option orders in mini-options.

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

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)[9] of the Act and Rule 19b–4(f)(6)[10] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) of the Act[11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii) of the Act,[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. In March 2013, the Exchange filed a proposed rule change to amend its rules to list and trade certain mini-options contracts on the Exchange, and represented in that filing that the Exchange's rules that apply to the trading of standard options contracts would apply to mini-options

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *See supra* note 5.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of the filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

contracts.[13] The Exchange believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would minimize confusion among market participants about how complex orders and stock-options orders involving mini-options contracts will trade.[14]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Such waiver would allow the Exchange to implement the proposed rule change immediately, thereby mitigating potential investor confusion as to how complex orders and stock options orders involving mini-options contracts will trade. For this reason, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.[15]

The Exchange represented that it began trading in mini-options contracts on March 18, 2013.[16] The Commission notes that this proposed rule change was filed on March 19, 2013, and, therefore, pursuant to Rule 19b–4(f)(6), waiver of the 30-day operative delay renders this proposed rule change effective upon the day that it was filed, March 19, 2013.

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 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–NYSEMKT–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–NYSEMKT–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 20549–1090, 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–NYSEMKT–2013–29, and should be submitted on or before April 17, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–07006 Filed 3–26–13; 8:45 am]

BILLING CODE 8011–01–P

[13] *See supra* note 4.

[14] *See id.*

[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* SR–NYSEMKT–2013–29, Item 7.

[17] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of 30 day Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before April 26, 2013. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and *OMB Reviewer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION:

Title: Borrower's Program Certification.

Frequency: On Occasion.

SBA Form Number: 1366.

Description of Respondents: Disaster Loan Borrowers.

Responses: 13,850.

Annual Burden: 6,925.

Title: Entrepreneurial Development Impact Study.

Frequency: On Occasion.

SBA Form Number: 2214.

Description of Respondents: Entrepreneurial's.

Responses: 12,468.

Annual Burden: 2,494.

Curtis Rich,

Management Analyst.

[FR Doc. 2013–06961 Filed 3–26–13; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the optional ''peg'' rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 2.500 (2½) percent for the April–June quarter of FY 2013.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for any third party lender's commercial loan which funds any portion of the cost of a 504 project (see 13 CFR 120.801) shall be 6% over the New York Prime rate or, if that exceeds the maximum interest rate permitted by the constitution or laws of a given State, the maximum interest rate will be the rate permitted by the constitution or laws of the given State.

Michael A. Simmons,

Acting Director, Office of Financial Assistance.

[FR Doc. 2013–06959 Filed 3–26–13; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13518 and #13519]

New Hampshire Disaster #NH–00025

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of New Hampshire (FEMA–4105–DR), dated 03/19/2013.

Incident: Severe Winter Storm and Snowstorm.

Incident Period: 02/08/2013 through 02/10/2013.

Effective Date: 03/19/2013.

Physical Loan Application Deadline Date: 05/20/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 12/19/2013.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 03/19/2013, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties

Belknap, Carroll, Cheshire, Hillsborough, Merrimack, Rockingham, Strafford, Sullivan.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere	2.875
Non-Profit Organizations without Credit Available Elsewhere	2.875
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	2.875

The number assigned to this disaster for physical damage is 13518B and for economic injury is 13519B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2013–06963 Filed 3–26–13; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Delegation of Authority No. 349]

Delegation to the Under Secretary for Arms Control and International Security of Authority To Concur With the Secretary of Defense Authorization of Activities of the Office of Security Cooperation in Iraq

By virtue of the authority vested in the Secretary of State, including Section 1211 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239) (NDAA), and Section 1 of the State Department Basic Authorities Act, as amended (22 U.S.C. 2651a), and delegated to me by the Secretary of State in Delegation of Authority 245–1, dated February 13, 2009, I hereby delegate to the Under Secretary for Arms Control and International Security, to the extent authorized by law, the authority to concur with a Secretary of Defense authorization that is made pursuant to Subsection 1211(c) of the NDAA.

Notwithstanding this delegation of authority, the Secretary, the Deputy Secretary, or the Deputy Secretary for Management and Resources may exercise any function or authority delegated by this Delegation. Any reference in this delegation of authority to any statute or delegation of authority shall be deemed to be a reference to such statute or delegation of authority as amended from time to time.

The Under Secretary for Arms Control and International Security may, to the extent consistent with law, redelegate such functions and authorities and authorize their successive redelegation.

This delegation of authority shall be published in the **Federal Register**.

Dated: February 22, 2013 .

William J. Burns,

Deputy Secretary of State.

[FR Doc. 2013–07073 Filed 3–26–13; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 8259]

Culturally Significant Objects Imported for Exhibition Determinations: ''Diaghilev and the Ballets Russes, 1909–1929: When Art Danced With Music''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Diaghilev and the Ballets Russes, 1909–1929: When Art Danced with Music,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the National Gallery of Art, Washington, DC, from on or about May 12, 2013, until on or about September 2, 2013, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of

the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: March 19, 2013.

J. Adam Ereli,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2013–07057 Filed 3–26–13; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8258]

Proposed Keystone XL Project; Public Meeting Following Release of the Draft Supplemental Impact Statement

AGENCY: Department of State.

ACTION: Notice of public meeting in Grand Island, Nebraska following release of the Draft Supplemental Impact Statement (SEIS) for the proposed Keystone XL project.

SUMMARY: On March 1, the Department of State released the Draft Supplemental Environmental Impact Statement (SEIS) for the Presidential Permit application for the proposed Keystone XL pipeline. The document is a draft technical review of potential environmental impacts. It does not make any recommendations on whether the pipeline border crossing should be approved or denied.

Consistent with the National Environmental Policy Act (NEPA), the Department of State (the Department) is holding a public comment period. The 45-day public comment period began on March 8. The Department has decided to hold a public meeting in conjunction with the public comment period. The Department will take into account public comments before the Draft SEIS is finalized. Once final, the document will help inform the U.S. government's decision on whether the Keystone XL pipeline serves the national interest.

Purpose of the Nebraska Meeting: The meeting in Grand Island, Nebraska is an opportunity for the public to provide comments on the Draft Supplemental Environmental Impact Statement and express views on the proposed Keystone XL pipeline. Participants are encouraged to present information regarding the analysis in the Draft SEIS. The public meeting is a listening session: the Department of State will not be responding to questions or comments at the meeting. Written comments will also be accepted.

The date, location, and time of the meeting are as follows:

April 18, 2013

Heartland Events Center, 700 East Stolley Park Rd., Grand Island, NE 68801.

12:00 p.m.–3:30 p.m., 4:00 p.m.–8:00 p.m.

Registration begins at 11:00 a.m.

Procedures for the Public Meeting

Speakers: All members of the public are welcome to attend the meeting and state their comments for the administrative record. Persons who want to speak at the meeting will need to sign up in person at the entrance of the meeting venue. Registration will begin at 11:00 a.m. Those wishing to speak must be present when their turn is called or they will forfeit their time.

Comments: Remarks made at the meeting will be recorded, transcribed, and entered into the administrative record and taken into consideration as the Department prepares the Final SEIS for the proposed Keystone XL pipeline. Each speaker will be allowed three minutes to make remarks, to allow the maximum number of people who sign up to speak. Speakers will be asked to state their name and any organization with which they are affiliated.

Depending on attendance, it may not be possible for all those who sign up to have the opportunity to speak. The Department of State encourages individuals who do not have the opportunity to speak or who are unable to complete their comments in the allotted time to submit comments on the Draft Supplemental Environmental Impact Statement in written form. Department of State officials will be available to accept written comments at the meeting. A summary of all comments will be incorporated in an appendix to the final version of the SEIS. In order to ensure that comments are considered, all comments must be submitted before the 45-day comment period ends at midnight on April 22, 2013.

Presiding Officer: The meeting will be chaired by an official from the Department of State. At the beginning of the meeting, the presiding officer will explain the Department's process for making a decision on the Permit, but will not respond to questions or comments.

Protocol: We ask attendees to respect the meeting procedures to ensure a constructive information gathering session that enables the maximum number of participants to express their views. No signs or banners will be allowed inside the meeting venue and comments should be directed at the presiding officer rather than at other attendees. The presiding officer will use his/her discretion in order to ensure that the meeting is conducted in an orderly manner.

FOR FURTHER INFORMATION CONTACT: A comprehensive description of the proposed Project, up-to-date information regarding the federal review process, and the Draft Supplemental Impact Statement are available at *www.keystonepipeline-xl.state.gov*.

Comments can be submitted by the following methods:

- Email at *keystonecomments@state.gov;* or
- Mailed to the following address: U.S. Department of State, Attn: Genevieve Walker, NEPA Coordinator, 2201 C Street NW., Room 2726, Washington, DC 20520.

As noted above, in order for comments to be considered they must be submitted by midnight on April 22, 2013.

Media Contacts: Please contact Imani Esparza at 202–736–7120 or via email at *EsparzaIJ@state.gov*.

Issued in Washington, DC, on March 22, 2013.

George Sibley,

Office Director, Office of Environmental Quality and Transboundary Issues, Bureau of Oceans and International Environmental and Scientific Affairs, U.S. Department of State.

[FR Doc. 2013–07072 Filed 3–26–13; 8:45 am]

BILLING CODE 4710–09–P

STATE JUSTICE INSTITUTE

SJI Board of Directors Meeting, Notice

AGENCY: State Justice Institute.

ACTION: Notice of Meeting.

SUMMARY: The SJI Board of Directors will be meeting on Monday, April 8, 2013 at 1:00 p.m. The meeting will be held at SJI Headquarters in Reston, Virginia. The purpose of this meeting is to consider grant applications for the 2nd quarter of FY 2013, and other business. All portions of this meeting are open to the public.

ADDRESSES: SJI Headquarters, 11951 Freedom Drive, Reston, VA 20190, 571–313–8843.

FOR FURTHER INFORMATION CONTACT: Jonathan Mattiello, Executive Director, State Justice Institute, 11951 Freedom Drive, Suite 1020, Reston, VA 20190, 571–313–8843, *contact@sji.gov.*

Jonathan D. Mattiello,

Executive Director.

[FR Doc. 2013–07004 Filed 3–26–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0050]

Agency Information Collection Activities; New Information Collection: Lease and Interchange of Vehicles

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval, and invites public comment. This ICR will enable FMCSA to document the burden associated with the marking regulations codified in 49 CFR Part 376, ''Lease and Interchange of Vehicles.'' These regulations require certain for-hire motor carriers to have a formal lease when leasing equipment.

ACTION: Notice and request for comments.

DATES: We must receive your comments on or before May 28, 2013.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA–2013–0050 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov*, and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdfE8-794.pdf.*

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Thomas Kelly, Chief, Compliance Division, Office of Enforcement and Compliance, U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Telephone: 202–366–1812; Email: *thomas.kelly@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Secretary of Transportation (Secretary) is authorized to require a motor carrier that uses motor vehicles not owned by it to transport property under an arrangement with another party to make the arrangement in writing. This written agreement must specify its duration, the compensation to be paid by the motor carrier providing transportation subject to jurisdiction under 49 U.S.C. 14102(a), ''Leased Motor Vehicles'' and signed by the parties. The Secretary has delegated authority pertaining to leased motor vehicles to FMCSA pursuant to 49 CFR part 1.87(a)(6). The Agency's regulations governing leased motor vehicles are at 49 CFR part 376.

The rules were adopted to ensure that small trucking companies were protected when they agreed to lease their equipment and drivers to larger for-hire carriers. They also ensure that the government and members of the public can determine who is responsible for a property-carrying commercial motor vehicle. Prior to the regulations some equipment was leased without written agreements, leading to disputes over which party to the lease was responsible for charges and actions and, at times, who was legally responsible for the vehicle. Under 49 U.S.C. 14102(a), FMCSA ''may require a motor carrier providing for-hire transportation that uses motor vehicles not owned by it to transport property under an arrangement with another party to—

(1) Make the arrangement in writing signed by the parties specifying its duration and the compensation to be paid by the motor carrier;

(2) carry a copy of the arrangement in each motor vehicle to which it applies during the period the arrangement is in effect;

(3) inspect the motor vehicles and obtain liability and cargo insurance on them; and

(4) have control of and be responsible for operating those motor vehicles in compliance with requirements prescribed by the Secretary on safety of operations and equipment, and with other applicable law as if the motor vehicles were owned by the motor carrier.''

The rules specify what must be covered in the lease, but not how responsibilities must be divided. The parties to the lease determine the details between themselves.

Part 376 applies to only certain motor carriers in interstate commerce and only certain leasing situations. The rules cover leasing between a for-hire carrier that does not hold an operating authority and another for-hire carrier that does hold operating authority. A for-hire motor carrier with or without operating authority that leases its equipment and drivers to a private motor carrier is not covered by the rule. A for-hire carrier with operating authority that leases its equipment to a non-motor carrier and operates under its own authority is also not covered by the rule. Private carriers that lease their equipment to for-hire motor carriers and for-hire carriers with their own operating authority leasing to another such carrier are subject to lesser requirements. For-hire carriers in interstate commerce are exempt from the rules if they operate exclusively in commercial zones. Commercial zones, last set by the ICC in 1975, are generally defined as a municipality and a distance from the limits of the municipality that ranges from 3 miles for cities with populations less than 2,500 to 20 miles for cities of a million or more people.

Some municipalities have additional areas defined for them.

Title: Lease and Interchange of Vehicles.

OMB Control Number: 2126–XXXX.

Type of Request: New collection.

Respondents: Motor carriers or shippers authorized by the Secretary to transport property that uses leasing equipment.

Estimated Number of Respondents: 16,500.

Estimated Time per Response: 1 hour 35 minutes [26,000 estimated annual burden hours/16,500 respondents = 1.57575 hours or 1 hour 35 minutes].

Expiration Date: N/A.

Frequency of Response: On occasion.

Estimated Total Annual Burden Hours: 26,000.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued on: March 18, 2013.

G. Kelly Leone,

Associate Administrator, Office of Research and Information Technology and Chief Information Officer.

[FR Doc. 2013–07096 Filed 3–26–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1998–4334; FMCSA–2000–7006; FMCSA–2000–7918; FMCSA–2002–12844; FMCSA–2003–14223; FMCSA–2005–20027; FMCSA–2006–25246; FMCSA–2006–26066; FMCSA–2008–0174; FMCSA–2010–0287; FMCSA–2010–0372; FMCSA–2010–0385; FMCSA–2011–0010]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 27 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective April 21, 2013. Comments must be received on or before April 26, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: [Docket No. FMCSA–1998–4334; FMCSA–2000–7006; FMCSA–2000–7918; FMCSA–2002–12844; FMCSA–2003–14223; FMCSA–2005–20027; FMCSA–2006–25246; FMCSA–2006–26066; FMCSA–2008–0174; FMCSA–2010–0287; FMCSA–2010–0372; FMCSA–2010–0385; FMCSA–2011–0010] using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on December 29, 2010 (75 FR 82132), or you may visit *http://www.gpo.gov/fdsys/pkg/FR-2010-12-29/pdf/2010-32876.pdf.*

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 27 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 27 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Roger B. Anders (MD)
John D. Bolding, Jr. (OK)
Daniel H. Bungartz (WI)
Benny J. Burke (AL)
David J. Collier (IA)
Michael P. Curtin (IL)
Richard L. Elyard (VA)
Elias Gomez, Jr. (TX)
Gary J. Hambrick (GA)
Michael E. Herrera, Jr. (NM)
James K. Holmes (PA)
Michael R. Holmes (SD)
Mark C. Jeffrey (MT)
William S. LaMar, Sr. (IA)
Shelby V. Nicholson (KY)
Harry M. Oxendine (NC)

James R. Petre (MD)
Gary W. Pope (AK)
Zeljko Popovac (VT)
Jerald W. Rehnke (MN)
James R. Rieck (CA)
Alvaro F. Rodriguez (TX)
Raymond E. Royer (MN)
Richie J. Schwendy (IL)
Jesse J. Sutton (IN)
Bill J. Thierolf (NE)
Janusz Tyrpien (FL)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 27 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (57 FR 57266; 63 FR 66226; 64 FR 16517; 65 FR 57230; 65 FR 66286; 66 FR 13825; 66 FR 17994; 67 FR 68719; 68 FR 2629; 68 FR 10300; 68 FR 10301; 68 FR 13360; 68 FR 15037; 68 FR 19596; 69 FR 62741; 70 FR 2701; 70 FR 7546; 70 FR 12265; 70 FR 14747; 70 FR 16886; 70 FR 16887; 71 FR 62147; 71 FR 63379; 72 FR 180; 72 FR 1050; 72 FR 7111; 72 FR 9397; 72 FR 11425; 72 FR 11426; 72 FR 12665; 72 FR 18726; 73 FR 20245; 73 FR 38497; 73 FR 48271; 73 FR 75806; 73 FR 76440; 73 FR 78421; 73 FR 78422; 74 FR 6211; 74 FR 8302; 74 FR 9329; 74 FR 11991; 75 FR 69737; 75 FR 72869; 75 FR 77942; 75 FR 79079; 76 FR 1499; 76 FR 5425; 76 FR 7894; 76 FR 8809; 76 FR 9856; 76 FR 9865; 76 FR 11215; 76 FR 12216; 76 FR 15360; 76 FR 17483; 76 FR 20076; 76 FR 20078). Each of these 27 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by April 26, 2013.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 27 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: March 19, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–07105 Filed 3–26–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA 2013–0002–N–7]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking renewal of the following currently approved information collection activities. Before submitting these information collection requirements for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than May 28, 2013.

ADDRESSES: Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 17, Washington, DC 20590, or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave., SE., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB control number ____.'' Alternatively, comments may be transmitted via facsimile to (202) 493–6216 or (202) 493–6497, or via email to Mr. Brogan at *Robert.Brogan@dot.gov,* or

to Ms. Toone at *Kim.Toone@dot.gov.* Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292) or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law. 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A)(I)-(iv); 5 CFR 1320.8(d)(1)(I)-(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a ''user friendly'' format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

Below are brief summaries of three currently approved information collection activities that FRA will submit for clearance by OMB as required under the PRA:

Title: Stencilling Reporting Mark on Freight Cars.

OMB Control Number: 2130–0520.

Abstract: Title 49, Section 215.301 of the Code of Federal Regulations, sets forth certain requirements that must be followed by railroad carriers and private car owners relative to identification marks on railroad equipment. FRA, railroads, and the public refer to the stencilling to identify freight cars.

Form Number(s): N/A.

Affected Public: Businesses.

Frequency of Submission: On occasion.

Respondent Universe: 728 railroads.

Total Estimated Responses: 25,000 stencilled/repainted freight cars.

Total Estimated Annual Burden: 18,750 hours.

Status: Regular Review.

OMB Control Number: 2130–0523.

Title: Rear-End Marking Devices.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses.

Form Number(s): N/A.

Abstract: The collection of information is set forth under 49 CFR part 221 which requires railroads to furnish a detailed description of the type of marking device to be used for the trailing end of rear cars in order to ensure rear cars meet minimum standards for visibility and display. Railroads are required to furnish a certification that the device has been tested in accordance with current ''Guidelines For Testing of Rear End Marking Devices.'' Additionally, railroads are required to furnish detailed test records which include the testing organizations, description of tests, number of samples tested, and the test results in order to demonstrate compliance with the performance standard.

Respondent Universe: 728 railroads.

Frequency of Submission: On occasion.

Total Estimated Responses: 4.

Total Estimated Annual Burden: 39 hours.

Status: Regular Review.

Title: Locomotive Certification (Noise Compliance Regulations).

OMB Control Number: 2130–0527.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses.

Form Number(s): N/A.

Abstract: Part 210 of title 49 of the United States Code of Federal Regulations (CFR) pertains to FRA's noise enforcement procedures which encompass rail yard noise source standards published by the Environmental Protection Agency (EPA). EPA has the authority to set these standards under the Noise Control Act of 1972. The information collected by FRA under Part 210 is necessary to ensure compliance with EPA noise standards for new locomotives.

Respondent Universe: 2 Locomotive Manufacturers.

Frequency of Submission: On occasion.

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
210.27—New Loco. Certification—Requests for Information.	4 Locomotive Manufacturers.	4 requests	30 minutes	2
—Identification of Locomotives	4 Locomotive Manufacturers.	790 badges/plates	30 minutes	395
210.31—Operation Standards—Measurement of Loco. Noise Emissions.	4 Locomotive Manufacturers.	790 recorded measurements.	3 hours	2,370

Total Estimated Responses: 1,582.

Total Estimated Annual Burden: 2,767 hours.

Status: Regular Review.

Title: Grade Crossing Signal System Safety Regulations.

OMB Control Number: 2130–0534.

Abstract: FRA believes that highway-rail grade crossing (grade crossing) accidents resulting from warning system failures can be reduced. Motorists lose

faith in warning systems that constantly warn of an oncoming train when none is present. Therefore, the fail-safe feature of a warning system loses its effectiveness if the system is not repaired within a reasonable period of time. A greater risk of an accident is present when a warning system fails to activate as a train approaches a grade crossing. FRA's regulations require railroads to take specific responses in the event of an activation failure. FRA uses the information to develop better solutions to the problems of grade crossing device malfunctions. With this information, FRA is able to correlate accident data and equipment malfunctions with the types of circuits and age of equipment. FRA can then identify the causes of grade crossing system failures and investigate them to determine whether periodic maintenance, inspection, and testing standards are effective. FRA also uses the information collected to alert railroad employees and appropriate highway traffic authorities of warning system malfunctions so that they can take the necessary measures to protect motorists and railroad workers at the grade crossing until repairs have been made.

Form Number(s): FRA F 6180.83.

Affected Public: Businesses.

Frequency of Submission: On occasion; record keeping.

Reporting Burden:

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
234.7—Telephone Notification	728 railroads	8 phone calls	15 minutes	2
234.9—Grade crossing signal system failure reports.	728 railroads	600 reports	15 minutes	150
234.105.106/107—Notification to train crew and highway traffic control authority.	728 railroads	24,000 notifications	15 minutes	6,000
234.109—Record Keeping	728 railroads	12,000 records	10 minutes	2,000

Total Estimated Responses: 36,608.

Total Estimated Annual Burden: 8,152 hours.

Status: Regular Review.

OMB Control Number: 2130–0535.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses.

Form Number(s): N/A.

Abstract: Section 20139 of Title 49 of the United States Code required FRA to issue rules, regulations, orders, and standards for the safety of maintenance-of-way employees on railroad bridges, including for ''bridge safety equipment'' such as nets, walkways, handrails, and safety lines, and requirements for the use of vessels when work is performed on bridges located over bodies of water. FRA has added 49 CFR part 214 to establish minimum workplace safety standards for railroad employees as they apply to railroad bridges. Specifically, section 214.15(c) establishes standards and practices for safety net systems. Safety nets and net installations are to be drop-tested at the job site after initial installation and before being used as a fall-protection system; after major repairs; and at six-month intervals if left at one site. If a drop-test is not feasible and is not performed, then a written certification must be made by the railroad or railroad contractor, or a designated certified person, that the net does comply with the safety standards of this section. FRA and State inspectors use the information to enforce Federal regulations. The information that is maintained at the job site promotes safe bridge worker practices.

Frequency of Submission: On occasion.

Total Estimated Responses: 6.

Total Estimated Annual Burden: 1 hour.

Status: Regular Review.

Title: Railroad Police Officers.

OMB Control Number: 2130–0537.

Type of Request: Extension of a currently approved collection.

Affected Public: Railroads and States.

Form(s): None.

Abstract: Under 49 CFR part 207, railroads are required to notify states of all designated police officers who are discharging their duties outside of their respective jurisdictions. This requirement is necessary to verify proper police authority.

Total Estimated Responses: 70.

Total Annual Estimated Burden Hours: 181 hours.

Status: Regular Review.

Title: Foreign Railroads' Foreign-Based (FRFB) Employees Who Perform Train or Dispatching Service in the United States.

OMB Control Number: 2130–0555.

Abstract: The collection of information is used by FRA to determine compliance of FRFB train and dispatching service employees and their employers with the prohibition against the abuse of alcohol and controlled substances. Because of the increase in cross-border train operations and the increased risk posed to the safety of train operations in the United States, FRA seeks to apply all of the requirements of 49 CFR part 219 to FRFB train and dispatching service employees. The basic information—evidence of unauthorized use of drugs and alcohol—is used by FRA to help prevent accidents/incidents by screening FRFB who perform safety-sensitive functions for unauthorized drug or alcohol use. FRFB train and dispatching service employees testing positive for unauthorized use of alcohol and drugs are removed from service, thereby enhancing safety and serving as a deterrent to other FRFB train and dispatching service employees who might be tempted to engage in the unauthorized use of drugs or alcohol.

Form Number(s): None.

Respondent Universe: 2 Railroads.

Frequency of Submission: On occasion.

Affected Public: Foreign-Based Railroads and Their Employees.

Reporting Burden:

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
219.4—Recognition of Foreign Railroads' Workplace Testing Programs: Petitions to Agency.	2 railroads	1 petition	10 hours	10
—Comments on Petition	2 railroads/public	2 comments + 2 comment copies.	2 hours	4
219.403/405—Evaluation by Substance Abuse Professional.	2 railroads	3 reports/referrals	2 hours	6

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
219.405(c)(1)—Report by a Co-worker	2 railroads	1 report	5 minutes	.08
219.609—Notice by Employee Asking to be Excused from Random Alcohol Testing.	200 employees	2 excuses	15 minutes	.5
219.903—Retention of Urine Drug Testing Records.	2 railroads	80 records	5 minutes	7

Total Responses: 91.

Total Estimated Total Annual Burden: 28 hours.

Type of Request: Extension of a Currently Approved Collection.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC, on March 21, 2013.

Rebecca Pennington,

Chief Financial Officer, Federal Railroad Administration.

[FR Doc. 2013–07042 Filed 3–26–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2013–0002–N–8]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice and Request for Comments

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describes the nature of the information collection and their expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on January 9, 2013.

DATES: Comments must be submitted on or before April 26, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 25, Washington, DC 20590 (telephone: (202) 493–6292), or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On January 9, 2013, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 78 FR 1930. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

Title: Designation of Qualified Persons.

OMB Control Number: 2130–0511.

Type of Request: Extension without change of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

Abstract: The collection of information is used to prevent the unsafe movement of defective freight cars. Railroads are required to inspect freight cars for compliance and to determine restrictions on the movements of defective cars.

Annual Estimated Burden: 40 hours.

Title: Passenger Equipment Safety Standards.

OMB Control Number: 2130–0544.

Type of Request: Extension with change of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

Abstract: The information gained from daily inspections is used to detect and correct equipment problems so as to prevent collisions, derailments, and other occurrences involving railroad passenger equipment that cause injury or death to railroad employees, railroad passengers, or to the general public; and to mitigate the consequences of any such occurrences, to the extent that they cannot be prevented. The information provided promotes passenger train safety by ensuring requirements are met for railroad equipment design and performance; fire safety; emergency systems; the inspection, testing, and maintenance of passenger equipment; and other provisions for the safe operation of railroad passenger equipment.

Annual Estimated Burden: 4,434,206 hours.

Addressee: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503; Attention: FRA Desk Officer. Comments may also be sent via email to OMB at the following address: *oira_submissions@omb.eop.gov.*

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of FRA, including whether the

information will have practical utility; the accuracy of FRA's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC, on March 21, 2013.

Rebecca Pennington,

Chief Financial Officer, Federal Railroad Administration.

[FR Doc. 2013–07044 Filed 3–26–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA 2013–0002–N–6]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking renewal of the following currently approved information collection activities. Before submitting these information collection requirements (ICRs) for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than May 28, 2013.

ADDRESSES: Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 17, Washington, DC 20590, or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB control number _____.'' Alternatively, comments may be transmitted via facsimile to (202) 493–6216 or (202) 493–6497, or via email to Mr. Brogan at *Robert.Brogan@dot.gov,* or to Ms. Toone at *Kim.Toone@dot.gov.* Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292) or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A)(I)–(iv); 5 CFR 1320.8(d)(1)(I)–(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) Reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a ''user friendly'' format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

Below are brief summaries of three currently approved information collection activities that FRA will submit for clearance by OMB as required under the PRA:

Title: Filing of Dedicated Cars.

OMB Control Number: 2130–0502.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses.

Form(s): N/A.

Abstract: Title 49, Part 215 of the Code of Federal Regulations, prescribes certain conditions to be followed for the movement of freight cars that are not in compliance with this Part. Dedicated service means the exclusive assignment of railroad cars to the transportation of freight between specified points under the following conditions: (1) The cars are operated primarily on track that is inside an industrial or other non-railroad installation; and only occasionally over track of a railroad; (2) The cars are not operated at speeds of more than 15 miles per hour; and over track of a railroad—(A) for more than 30 miles in one direction; or (B) on a round trip for more than 60 miles; (3) The cars are not freely interchanged among railroads; (4) The words ''Dedicated Service'' are stenciled, or otherwise displayed, in clear legible letters on each side of the car body; and (5) The cars have been examined and found safe to operate in dedicated service. These cars must be identified in a written report to FRA before they are assigned to dedicated service, and these reports must be filed with FRA 30 days before the cars operate in dedicated service. FRA uses the information collected under § 215.5(d) to determine the number of railroads affected, the number and type of cars involved, the commodities being carried, and the territorial and speed limits within which the cars will be operated. FRA reviews these reports to determine if the equipment is safe to operate and if the operation qualifies for dedicated service. The information collected indicates to FRA inspectors that the particular or ''dedicated'' car is in special service and that certain exceptions have been provided for

regarding the application of this regulation spelled out in § 215.3. Cars not in compliance with § 215.5(d) will be cited for violations by FRA inspectors. The information collected is also used by railroads to provide identification and control so that dedicated cars remain in the prescribed service.

Total Annual Estimated Responses: 4.

Total Annual Estimated Burden: 4 hours.

Title: Special Notice for Repairs.

OMB Control Number: 2130–0504.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses.

Form(s): FRA F 6180.8; FRA F 6180.8A.

Abstract: The Special Notice for Repairs is issued to notify the carrier in writing of an unsafe condition involving a locomotive, car, or track. The carrier must return the form after repairs have been made. The collection of information is used by State and Federal inspectors to remove freight car or locomotives until they can be restored to a serviceable condition. It is also used by State and Federal inspectors to reduce the maximum authorized speed on a section of track until repairs can be made.

Total Annual Estimated Responses: 32.

Total Annual Estimated Burden: 10 hours.

Title: Remotely Controlled Switch Operations.

OMB Control Number: 2130–0516.

Abstract: Title 49, Section 218.30 of the Code of Federal Regulations (CFR), ensures that remotely controlled switches are lined to protect workers who are vulnerable to being struck by moving cars as they inspect or service equipment on a particular track or, alternatively, occupy camp cars. FRA believes that production of notification requests promotes safety by minimizing mental lapses of workers who are simultaneously handling several tasks. Sections 218.30 and 218.67 require the operator of remotely controlled switches to maintain a record of each notification requesting blue signal protection for 15 days. Operators of remotely controlled switches use the information as a record documenting blue signal protection of workers or camp cars. This record also serves as a valuable resource for railroad supervisors and FRA inspectors monitoring regulatory compliance.

Form Number(s): N/A.

Affected Public: Businesses.

Respondent Universe: 728 railroads.

Frequency of Submission: On occasion.

CFR section	Respondent universe	Total annual responses	Average time per response (minute)	Total annual burden hours
218.30—Blue signal protection of workmen.	70 railroads	3,600,000 notifications	1	60,000
218.77—Protection of occupied camp cars.	4 railroads	2,300 notifications	1	38

Total Estimated Responses: 3,602,300.

Total Estimated Annual Burden: 60,038 hours.

Status: Regular Review.

Title: Bad Order and Home Shop Card.

OMB Control Number: 2130–0519.

Abstract: Under 49 CFR part 215, each railroad is required to inspect freight cars placed in service and take the necessary remedial action when defects are identified. Part 215 defects are specific in nature and relate to items that have or could have caused accidents or incidents. Section 215.9 sets forth specific procedures that railroads must follow when it is necessary to move defective cars for repair purposes. For example, railroads must affix a ''bad order'' tag describing each defect to each side of the freight car. It is imperative that a defective freight car be tagged ''bad order'' so that it may be readily identified and moved to another location for repair purposes only. At the repair point, the ''bad order'' tag serves as a repair record. Railroads must retain each tag for 90 days to verify that proper repairs were made at the designated location. FRA and State inspectors review all pertinent records to determine whether defective cars presenting an immediate hazard are being moved in transportation.

Form Number(s): N/A.

Affected Public: Businesses.

Frequency of Submission: On occasion.

CFR section	Respondent universe	Total annual responses	Average time per response (minutes)	Total annual burden hours
215.9—Movement of Defective Cars for Repair—Tagging.	728 railroads	150,000 tags	5	12,500
—Notifications of Removal of Defective Car Tags.	728 railroads	75,000 notifications	2	2,500
215.11—Designated Inspectors—Records.	718 railroads	45,000 records	1	750

Respondent Universe: 728 railroads.

Total Estimated Responses: 270,000.

Total Estimated Annual Burden: 15,750 hours.

Status: Regular Review.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on March 21, 2013.

Rebecca Pennington,

Chief Financial Officer, Federal Railroad Administration.

[FR Doc. 2013–07035 Filed 3–26–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2013–0002–N–9]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice and Request for Comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describes the nature of the information collections and their expected burdens. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on January 23, 2013.

DATES: Comments must be submitted on or before April 26, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 25, Washington, DC 20590 (telephone: (202) 493–6292), or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On January 23, 2013, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 78 FR 4978. FRA received no comments after issuing this notice. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)-(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

Title: Passenger Train Emergency Preparedness.

OMB Control Number: 2130–0545.

Type of Request: Extension without change of a currently approved collection.

Affected Public: Railroads.

Form(s): None.

Abstract: The collection of information is due to the passenger train emergency regulations set forth in 49 CFR parts 223 and 239 which require railroads to meet minimum Federal standards for the preparation, adoption, and implementation of emergency preparedness plans connected with the operation of passenger trains, including freight railroads hosting operations of rail passenger service. The regulations require luminescent or lighted emergency markings so that passengers and emergency responders can readily determine where the closest and most accessible exit routes are located and how the emergency exit mechanisms are operated. Windows and doors intended for emergency access by responders for extrication of passengers must be marked with retro-reflective material so that emergency responders, particularly in conditions of poor visibility, can easily distinguish them from the less accessible doors and windows. Records of the inspection, maintenance, and repair of emergency windows and door exits, as well as records of operational efficiency tests, will be used to ensure compliance with the regulations.

Annual Estimated Burden: 11,520 hours.

Addressee: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503, Attention: FRA Desk Officer.

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC, on March 21, 2013.

Rebecca Pennington,

Chief Financial Officer, Federal Railroad Administration.

[FR Doc. 2013–07046 Filed 3–26–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Research and Innovative Technology Administration

[Docket RITA 2013–0002]

Invitation for Public Comment on Draft DOT Research, Development and Technology Strategic Plan (2013–2018)

AGENCY: Research and Innovative Technology Administration, DOT.

ACTION: Notice, request for public comments.

SUMMARY: The U.S. Department of Transportation (U.S. DOT) is providing notice of request for public comment on its draft strategic plan, *U.S. Department of Transportation, Research, Development and Technology Strategic Plan FY 2013–2018.* The new five-year strategic plan will guide the Department's research, development, and technology activities as required by Section 52013 of Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 112–141; July 6, 2012. The new plan places its focus on the U.S. DOT Strategic Goals: *Safety; State of Good Repair; Economic Competitiveness; Livable Communities and Environmental Sustainability,* along

with MAP–21 RD&T critical issues: *Promoting safety; reducing congestion and improving mobility; preserving the environment; preserving existing transportation systems; improving the durability and extending the life of transportation infrastructure; and improving goods movement.* The Research and Innovative Technology Administration's (RITA's) Office of Research, Development and Technology (RD&T), has coordinated this effort in collaboration with partner modal administrations and offices across the U.S. DOT. As recommended by the Government Accountability Office (GAO) and the National Research Council (NRC), RITA and its partners are seeking public stakeholder comment to ensure RD&T resources are invested wisely to achieve measurable improvements in our Nation's transportation system.

DATES: Written comments should be submitted by April 26, 2013.

ADDRESSES: You may submit comments identified by DOT Docket ID Number RITA 2013–0002 by any of the following methods:

Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Mail: Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

Fax: 202–493–2251.

Instructions: Identify docket number, RITA 2013–0002, at the beginning of your comments, and send two copies. To receive confirmation that DOT received your comments, include a self-addressed stamped postcard. Internet users may access all comments received by DOT at *http://www.regulations.gov.* All comments are posted electronically without charge or edits, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://DocketInfo.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Dr. Kevin Womack, Associate Administrator, Office of Research Development and Technology, Research and Innovative Technology Administration, 1200 New Jersey Avenue Street SE., Washington, DC 20590–0001, telephone (202) 366–5447 or email *Kevin.Womack@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

RITA was established as a separate administration within the United States Department of Transportation pursuant to the Norman Y. Mineta Research and Special Programs Improvement Act (Pub. L. 108–426), November 30, 2004, with the mandate to generate greater efficiency and increase the effectiveness of the U.S. DOT's coordination, analysis, and review of research programs, progress and products and in advancing innovative technology.

The new draft strategic plan, *U.S. Department of Transportation, Research, Development and Technology Strategic Plan FY 2013–2018,* is the Department's second since RITA's inception. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) enacted in 2005 called for the U.S. DOT to develop a strategic plan to guide its RD&T activities. The previous Plan was published in 2006 and served as a compendium of modal research pursuits at that time. Section 52013 of Moving Ahead for Progress in the 21st Century Act (MAP–21) enacted in 2012 called for the Department to develop a new five-year RD&T strategic plan. The new draft Plan pursues a more cross-modal, collaborative and strategic process to cover the years 2013–2018, and responds to feedback from the National Research Council's review (*http://onlinepubs.trb.org/onlinepubs/reports/letterreport_usdotrd&tplan.pdf*), of the earlier plan published in 2006, ''Transportation Research, Development and Technology Strategic Plan 2006–2010'', (*http://www.rita.dot.gov/sites/default/files/rita_archives/rita_publications/transportation_rd_t_strategic_plan/index.html*), and the recommendations of the GAO report published in 2006, ''Transportation Research: Opportunities for Improving the Oversight of DOT's Research Programs and User Satisfaction with Transportation Statistics'' (*http://www.gao.gov/assets/260/251162.html*). The U.S. DOT, with leadership from RITA engaged in a collaborative process involving all of the U.S. DOT operating administrations. Two cross-modal bodies participated in the process: the RD&T Planning Team Council (composed of the heads of the operating administrations, the Under Secretary for Policy, and other senior U.S. DOT leaders) and the RD&T Planning Team which includes the Associate Administrators for RD&T in each operating administration. Through this Notice, the U.S. DOT is seeking input from stakeholders including individual citizens, members of the private sector, the academic community, non-governmental organizations, and other interested parties.

Stakeholder's comments should be aligned, if possible, with the U.S. DOT Strategic Goals, the RD&T critical issues as outlined in MAP–21 and combined in the draft Plan as well as listed in the Summary section of this notice. All comments will be considered that are received by the deadline that appears in the **DATES** section.

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

Gregory D. Winfree,

Deputy Administrator, Research and Innovative Technology Administration.

[FR Doc. 2013–07024 Filed 3–26–13; 8:45 am]

BILLING CODE 4910–HY–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Information Collection Activities

AGENCY: Surface Transportation Board, Transportation.

ACTION: Notice and Request for Comments.

SUMMARY: The Surface Transportation Board (Board or STB), 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), is submitting a request to the Office of Management and Budget (OMB) for approval of the information collections required under 49 U.S.C. 11301 and 49 CFR 1177 (rail or water carrier equipment liens (recordations)); under 49 U.S.C. 10747 and 49 CFR 1313 (rail agricultural contract summaries); and under 49 U.S.C. 13702(b) and 49 CFR 1312 (water carrier tariffs). The Board previously published a notice about this collection in the **Federal Register** on October 19, 2012, at 77 Fed. Reg. 64376. That notice allowed for a 60-day public review and comment period. No comments were received. The relevant information

collections are described in more detail below.

For each collection, comments are requested concerning: (1) The accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) 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; and (4) whether the collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility. Submitted comments will be summarized and included in the Board's request for OMB approval.

DATES: Comments on this information collection should be submitted by April 26, 2013.

ADDRESSES: Written comments should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Patrick Fuchs, 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* and refer to the title of the collection(s) commented upon.

FOR FURTHER INFORMATION CONTACT: Marilyn Levitt at *levittm@stb.dot.gov* or (202) 245–0269. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Relevant STB regulations may be viewed on the STB's Web site under E-Library > Reference: STB Rules, *http://www.stb.dot.gov/stb/elibrary/ref_stbrules.html*.

Subjects: In this notice the Board is requesting comments on the following information collections:

Collection Number 1

Title: Recordations (Rail and Water Carrier Liens).

OMB Control Number: 2140–00XX.

STB Form Number: None.

Type of Review: Existing collection in use without an OMB control number.

Respondents: Parties holding liens on rail equipment or water carrier vessels, carriers filing proof that a lien has been removed.

Number of Respondents: An annual average of 2125 recordations was filed during the last three years by 50 respondents.

Frequency: On occasion.

Total Burden Hours (annually including all respondents): 1,240 hours (estimated 35 minutes per response × 2125 responses).

Total ''Non-hour Burden'' Cost (such as start-up and mailing costs): There are no non-hourly burden costs for this collection. The collection may be filed electronically.

Needs and Uses: Under the Interstate Commerce Act, 49 U.S.C. 11301 and related regulations at 49 CFR 1177, liens on rail equipment must be filed with the STB in order to perfect a security interest in the equipment. Subsequent assignments of rights or release of obligations under such instruments must also be filed with the agency. This information is maintained by the Board for public inspection. Recordation at the STB obviates the need for recording such a lien in individual States.

Retention Period: Recordations of liens are destroyed 60 years after the last filing.

Collection Number 2

Title: Water Carrier Tariffs

OMB Control Number: 2140–00XX.

STB Form Number: None.

Type of Review: Existing collection in use without an OMB control number.

Respondents: Water carriers that provide freight transportation in noncontiguous domestic trade.

Number of Respondents: Approximately 25.

Frequency: On occasion, for an annual total of 1917 tariffs filed.

Total Burden Hours (annually including all respondents): 1,254 hours (1672 filings × .75 hour (estimated time per filing)).

Total ''Non-hour Burden'' Cost (such as start-up costs and mailing costs): There are no non-hourly burden costs for this collection. The collection may be filed electronically.

Needs and Uses: While rail carriers are no longer required to file rate tariffs at the STB, a statutory requirement exists for water carriers that provide freight transportation in noncontiguous domestic trade (i.e., domestic (as opposed to international) shipments moving to or from Alaska, Hawaii, or the U.S. territories or possessions (Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands)). A tariff provides a list of prices and fees that the carrier charges to the shipping public.

Retention Period: After cancellation, tariffs are placed in a ''Cancelled Tariffs'' file. They are destroyed five years after the end of the year in which they were cancelled.

Collection Number 3

Title: Agricultural Contract Summaries.

OMB Control Number: 2140–00XX.

STB Form Number: None.

Type of Review: Existing collection in use without an OMB control number.

Number of Respondents: Approximately 10.

Frequency: On occasion, for a total from all respondents of approximately 141 submissions per year (which must be submitted as soon as possible, but not longer than seven days after effective date of contract or amendment).

Total Burden Hours (annually including all respondents): 106 hours (141 submissions × .75 hours (45 minutes) estimated per submission).

Total Annual ''Non-hour Burden'' Cost (such as start-up and mailing costs): There are no non-hourly burden costs for this collection. The collection is filed electronically.

Needs and Uses: While the terms of a rail transportation contract are treated as confidential, railroads are required by statute to file a summary of the nonconfidential terms of any contract for the transportation of agricultural products.

Retention Period: Paper copies of this collection are destroyed six months after the expiration of the referenced contract.

SUPPLEMENTARY INFORMATION: Under the PRA, a Federal agency conducting or sponsoring a collection of information must display a currently valid OMB control number. A 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 22, 2013.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–07056 Filed 3–26–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Information Collection Activities; Rail Depreciation Studies

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—Rail Depreciation Studies—further described below. The Board previously published a notice about this collection in the **Federal Register** on July 30, 2012, at 77 FR 44710. 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 this collection of information 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.

DATES: Written comments are due on April 26, 2013.

ADDRESSES: Written comments should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Patrick Fuchs, 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.* Comments should refer to the title of the collection commented upon.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Paul Aguiar at (202) 245–0323 or *aguiarp@stb.dot.gov.* [Federal Information Relay Service (FIRS) for the hearing impaired: (800) 877–8339.]

Subjects: In this notice the Board is requesting comments on the following information collection:

Title: Rail Depreciation Studies.

OMB Control Number: 2140–XXXX.

Form Number: None.

Type of Review: Collection in existence without a Control Number.

Respondents: Class I railroads.

Number of Respondents: 7.

Estimated Time per Response: Between 500 and 540 hours annually, depending on whether the rail-carrier respondent has significant assistance from outside consultants, resulting in an average of 515 hours per response.

Frequency of Response: Every 3 years for equipment; every 6 years for other depreciable property.

Total Annual Hour Burden: 3,605 hours (515 hours × 7 Class I railroads).

Total Annual "Non-Hour Burden" Cost: Between $8,340 and $30,000 annually, depending on whether the rail-carrier respondent has significant assistance from outside consultants, resulting in an annual per railroad average of $20,500 and a cumulative total for all 7 Class I railroads of $143,500.

Needs and Uses: Under 49 U.S.C. 11143, the Board is required to identify those classes of property for which rail carriers may include depreciation charges under operating expenses, and the Board must also prescribe a rate of depreciation that may be charged to those classes of property. Pursuant to the Board's authority under § 11145 and 49 CFR Part 1201, Section 4–2(b), Class I (large) rail carriers are required to submit to the Board Depreciation Studies. Information in these studies is not available from any other source. The Board uses the information in these studies to prescribe depreciation rates. These depreciation-rate prescriptions state the period for which the depreciation rates therein are applicable. Class I railroads apply the prescribed depreciation rates to their investment base to determine monthly and annual depreciation expense. This expense is included in the railroads' operating expenses, which are reported in their R–1 reports (OMB Control Number 2140–0009). Operating expenses are used to develop operating costs for application in various proceedings before the Board, such as in rate reasonableness cases and in the determination of railroad revenue adequacy.

SUPPLEMENTARY INFORMATION: Under the PRA, a Federal agency conducting or sponsoring a collection of information must display a currently valid OMB control number. A 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 21, 2013.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–06936 Filed 3–26–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35720]

Nittany and Bald Eagle Railroad Company—Temporary Trackage Rights Exemption—Norfolk Southern Railway Company

Norfolk Southern Railway Company (NS), pursuant to a written trackage rights Agreement (Agreement), has agreed to grant non-exclusive, temporary, overhead trackage rights to Nittany and Bald Eagle Railroad Company (N&BE) over NS's line of railroad between milepost BR 194.2, at Lock Haven, PA, and milepost BR 139.2, at Driftwood, PA, a distance of 55 miles.[1]

The transaction may be consummated on or after April 10, 2013, the effective date of the exemption (30 days after the verified notice of exemption was filed). The temporary trackage rights are scheduled to expire on or about December 30, 2013. The purpose of the temporary trackage rights is to allow N&BE to operate bridge train service for temporary, seasonal traffic.

As a condition to this exemption, any employees affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway, Inc.—Lease & Operate—California Western Railroad,* 360 I.C.C. 653 (1980), and any employees affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d)

[1] A redacted version of the Agreement between NS and N&BE was filed with the notice of exemption. N&BE simultaneously filed a motion for protective order to protect the confidential and commercially sensitive information contained in the unredacted version of the Agreement, which N&BE submitted under seal in this proceeding. That motion will be addressed in a separate decision.

may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Petitions for stay must be filed no later than April 3, 2013 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35720, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Richard R. Wilson, 518 N. Center Street Ste. 1, Edensburg, PA 15931.

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov.*''

Decided: March 22, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2013–07015 Filed 3–26–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Survey of Foreign Ownership of U.S. Securities as of June 30, 2013

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of reporting requirements.

SUMMARY: By this Notice, the Department of the Treasury is informing the public that it is conducting a mandatory survey of foreign ownership of U.S. securities as of June 30, 2013. This mandatory survey is conducted under the authority of the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 et seq.) This Notice constitutes legal notification to all United States persons (defined below) who meet the reporting requirements set forth in this Notice that they must respond to, and comply with, this survey. Additional copies of the reporting forms SHLA (2013) and instructions may be printed from the Internet at: *http://www.treasury.gov/resource-center/data-chart-center/tic/Pages/forms-sh.aspx.*

Definition: A U.S. person is any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Government, a State or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency), who resides in the United States or is subject to the jurisdiction of the United States.

Who Must Report: The panel for this survey is based primarily on the level of foreign resident holdings of U.S. securities reported on the June 2009 benchmark survey of foreign resident holdings of U.S. securities, and will consist mostly of the largest reporters on that survey. Entities required to report will be contacted individually by the Federal Reserve Bank of New York. Entities not contacted by the Federal Reserve Bank of New York have no reporting responsibilities.

What To Report: This report will collect information on foreign resident holdings of U.S. securities, including equities, short-term debt securities (including selected money market instruments), and long-term debt securities.

How To Report: Copies of the survey forms and instructions, which contain complete information on reporting procedures and definitions, may be obtained at the Web site address given above in the Summary, or by contacting the survey staff of the Federal Reserve Bank of New York at (212) 720–6300 or (646) 720–6300, email: *SHLA.help@ny.frb.org.* The mailing address is: Federal Reserve Bank of New York, Statistics Function, 4th Floor, 33 Liberty Street, New York, NY 10045–0001. Inquiries can also be made to the Federal Reserve Board of Governors, at (202) 452–3476, or to Dwight Wolkow, at (202) 622–1276, or by email: *comments2TIC@do.treas.gov.*

When To Report: Data should be submitted to the Federal Reserve Bank of New York, acting as fiscal agent for the Department of the Treasury, by August 31, 2013.

Paperwork Reduction Act Notice: This data collection has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act and assigned control number 1505–0123. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. The estimated average annual burden associated with this collection of information is 486 hours per report for the largest custodians of securities, and 110 hours per report for the largest issuers of securities that have data to report and are not custodians. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Department of the Treasury, Office of International Affairs, Attention Administrator, International Portfolio Investment Data Reporting Systems, Room 5422, Washington, DC 20220, and to OMB, Attention Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Reporting Systems.

[FR Doc. 2013–07028 Filed 3–26–13; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities; Proposed Information Collection; Comment Request: Examination Questionnaire

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and Request for Comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the renewal of an information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning renewal of its information collection titled, ''Examination Questionnaire.''

DATES: Comments must be submitted by May 28, 2013.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0199, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors

will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: You may request additional information or a copy of the collection and supporting documentation submitted to OMB by contacting: Johnny Vilela or Mary H. Gottlieb, (202) 649–5490, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

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) to include 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, the OCC is publishing notice of the proposed collection of information set forth in this document. The OCC is proposing to extend the approval for the following information collection:

Title: Examination Questionnaire.

OMB Control No.: 1557–0199.

Affected Public: Businesses or other for-profit.

Type of Review: Extension of a currently approved collection.

Abstract: The Office of the Comptroller of the Currency (OCC) has revised its Examination Survey and updated the estimated burden hours to adjust for the current number of national banks and thrifts in the OCC's supervisory system. Completed Examination Surveys provide the OCC with the information needed to properly evaluate the content and conduct of OCC examinations. Completed Examination Surveys also help measure the OCC's performance and progress in improving the supervisory experience and agency communications. The OCC will use the information to identify problems or trends that may impair the effectiveness of the examination process, to identify ways to improve its service to the banking industry, and to analyze staff and training needs. A survey is provided to each bank or thrift at the conclusion of their supervisory cycle. Bankers will now be able to complete this survey using a secure web-based data collection tool.

The OCC is conducting an Exit Survey of banks and thrifts after they exit the OCC's supervisory and examination system. Completed Exit Surveys will help OCC understand the underlying reasons why banks and thrifts decide to leave the system. The OCC will use this information to improve relationships with America's banks and thrifts and identify problems that may impair the effectiveness of the examination and supervisory process. A survey is provided to each bank or thrift after they exit the OCC's supervisory system. Bankers will be able to complete this survey using a secure web-based data collection tool.

Burden Estimates (Examination Survey):

Estimated Number of Respondents: 1,307.

Estimated Number of Responses per Respondent per Year: 0.54.

Estimated Number of Responses: 706.

Estimated time per response: 10 minutes.

Estimated Annual Burden: 118 hours.

Burden Estimates (Exit Survey):

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent per Year: 0.25.

Estimated Number of Responses: 12.

Estimated time per response: 5 minutes.

Estimated Annual Burden: 1 hour.

Comments: All comments will be considered in formulating the subsequent submission and become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

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

Dated: March 21, 2013.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 2013–07098 Filed 3–26–13; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Women Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2., that the Advisory Committee on Women Veterans will meet on April 9–11, 2013, in the G. V. ''Sonny'' Montgomery Conference Center, room 230, at VA Central Office, 810 Vermont Avenue NW, Washington, DC, from 8:30 until 4:30 p.m. each day. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs regarding the needs of women Veterans with respect to health care, rehabilitation, compensation, outreach, and other programs and activities administered by VA designed to meet such needs. The Committee makes recommendations to the Secretary regarding such programs and activities.

The agenda will include updates from the Veterans Health Administration, the Veterans Benefits Administration, and the National Cemetery Administration and staff offices, as well as updates on recommendations from the 2012 Report of the Advisory Committee on Women Veterans.

No time will be allocated at this meeting for receiving oral presentations from the public. Interested parties should provide written comments for review by the Committee to Ms. Shannon L. Middleton, VA, Center for Women Veterans (00W), 810 Vermont Avenue NW, Washington, DC 20420, or email at *00W@mail.va.gov,* or fax to (202) 273–7092. Individuals who wish to attend the meeting or want additional information should contact Ms. Middleton at (202) 461–6193.

Dated: March 21, 2013.

By Direction of the Secretary.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2013–06979 Filed 3–26–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

National Research Advisory Council, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C., App. 2, that the National Research Advisory Council will hold a meeting on Thursday, March 28, 2013, in conference room 23, at 131 M Street NE., Washington, DC. The meeting will convene at 9:30 a.m. and end at 3:30 p.m. The meeting is open to the public.

The purpose of the Council is to provide external advice and review for VA's research mission. The agenda will include a review of the VA research portfolio and a summary of special projects. The Council will also provide feedback on the direction/focus of VA's research initiatives.

No time will be allocated at this meeting for receiving oral presentations from the public. Interested members of the public may submit written statements for the Council's review to Pauline Cilladi-Rehrer, Designated Federal Officer, Office of Research and Development (10P9), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, or by email at *pauline.cilladi-rehrer@va.gov.*

Any member of the public wishing to attend the meeting or wishing further information should contact Ms. Cilladi-Rehrer at (202) 443–5607.

By Direction of the Secretary.

Date: March 21, 2013.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2013–06977 Filed 3–26–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Rehabilitation Research and Development Scientific Merit Review Board, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that a meeting of the Rehabilitation Research and Development Service Scientific Merit Review Board will be held on April 9, 2013, in Room 23 at 131 M Street NE., Washington, DC, from 8 a.m. to 5 p.m. to evaluate Rehabilitation Research and Development Center of Excellence and Research Enhancement Award Program applications.

The purpose of the Board is to review rehabilitation research and development applications and advise the Director, Rehabilitation Research and Development Service, and the Chief Research and Development Officer on the scientific and technical merit, the mission relevance, and the protection of human and animal subjects.

The meeting will be open to the public for approximately one-half hour at the start to cover administrative matters and to discuss the general status of the program. The remaining portion of the meeting will be closed to the public for the discussion, examination, reference to, and oral review of the research applications and critiques. No oral or written comments will be accepted from the public for either portion of the meeting.

During the closed potion of the meeting, discussion and recommendations will include qualifications of the personnel conducting the studies (the disclosure of which would constitute a clearly unwarranted invasion of personal privacy), as well as research information (the premature disclosure of which would likely compromise significantly the implementation of proposed agency action regarding such research projects). As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing the meeting is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

Those who plan to attend the open portion of the meeting should contact Tiffany Asqueri, Designated Federal Officer, Rehabilitation Research and Development Service, at Department of Veterans Affairs (10P9R), 810 Vermont Avenue NW., Washington, DC 20420, or email *tiffany.asqueri@va.gov* at least five days before the meeting. For further information, please call Mrs. Asqueri at (202) 443–5757.

Dated: March 21, 2013.

By Direction of the Secretary.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2013–06978 Filed 3–26–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Genomic Medicine Program Advisory Committee, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C., App. 2, that the Genomic Medicine Program Advisory Committee will meet on April 11, 2013, in Suite 1000 at the United States Access Board Conference Room, 1331 F Street NW., Washington, DC. The meeting will convene at 9 a.m. and adjourn at 5 p.m. The meeting is open to the public.

The purpose of the Committee is to provide advice and make recommendations to the Secretary of Veterans Affairs on using genetic information to optimize medical care of Veterans, and to enhance development of tests and treatments for diseases particularly relevant to Veterans.

The Committee will receive program updates and will continue to provide insight into optimal ways for VA to incorporate genomic information into its health care program while applying appropriate ethical oversight and protecting the privacy of Veterans. The meeting focus will be on expanding VA's infrastructure for storing and analyzing genomic data and updates on the status of the ongoing Million Veteran Program, as well as the clinical Genomic Medicine Service. The emerging implications of combining information from genetic data with data from publically available genealogy databases will also be discussed. The meeting will also receive an update on the status of the ongoing Million Veteran Program and the clinical Genomics Service. Public comments will be received at 3:30 p.m. and are limited to 5 minutes each. Individuals who speak are invited to submit a 1–2 page summary of their comments for inclusion in the official meeting record to Dr. Sumitra Muralidhar, Designated Federal Officer, 810 Vermont Avenue NW (10P9), Washington, DC 20420 or by email at *sumitra.muralidhar@va.gov.* Any member of the public seeking additional information should contact Dr. Muralidhar at (202) 443–5679.

By Direction of the Secretary.

Dated: March 21, 2013.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2013–06980 Filed 3–26–13; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 78 Wednesday,

No. 59 March 27, 2013

Part II

Department of Education

34 CFR Subtitle A

Final Priorities, Requirements, Definitions, and Selection Criteria—Investing in Innovation Fund; Applications for New Awards; Investing in Innovation Fund, Development Grants; Rule and Notice

DEPARTMENT OF EDUCATION

34 CFR Subtitle A

RIN 1855–AA09

[Docket No. ED–2012–OII–0027]

Final Priorities, Requirements, Definitions, and Selection Criteria—Investing in Innovation Fund

AGENCY: Office of Innovation and Improvement, Department of Education.

ACTION: Final priorities, requirements, definitions, and selection criteria.

[CFDA Numbers: 84.411A, 84.411B, and 84.411C]

SUMMARY: The Assistant Deputy Secretary for Innovation and Improvement announces priorities, requirements, definitions, and selection criteria under the Investing in Innovation Fund (i3). The Assistant Deputy Secretary may use one or more of these priorities, requirements, definitions, and selection criteria for competitions in fiscal year (FY) 2013 and later years.

We clarify and redesign key aspects of the program by incorporating lessons learned from past i3 competitions. Specifically, we intend to improve the i3 program to better achieve its purposes and goal by making changes that will result in accelerating the identification of promising solutions to pressing challenges in K–12 public education, supporting the evaluation of the efficacy of such solutions, and developing new approaches to scaling effective practices to serve more students.

DATES: These priorities, requirements, definitions, and selection criteria are effective April 26, 2013.

FOR FURTHER INFORMATION CONTACT: Carol Lyons, U.S. Department of Education, 400 Maryland Avenue SW., Room 4W203 LBJ, Washington, DC 20202. Telephone: (202) 453–7122 or by email: *i3@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:

Executive Summary

Purpose of This Regulatory Action: The purpose of this action is to establish priorities, requirements, definitions, and selection criteria that will enable effective grant making, resulting in the selection of high-quality applicants who propose to implement activities that are most likely to have a significant national impact on educational reform and improvement. This document refines the selection criteria for the i3 program to better articulate the expectations for the three types of i3 grants, provides greater clarity regarding the program's evidence standards, widens the range of these standards by broadening the types of evidence that can be used to support Development grants, and identifies a comprehensive set of priorities that the Secretary may select from to use in an i3 grant competition for any given year.

Summary of the Major Provisions of This Regulatory Action: This document establishes priorities, requirements, definitions, and selection criteria that allow the Department to improve the design of the i3 program to better achieve its purposes and goals.

This document includes 11 priorities that the Secretary may select from when establishing priorities for each type of grant (i.e., Development, Validation, and Scale-up) in an i3 competition in a given year. These priorities represent a range of education topics:

- Improving the effectiveness of teachers or principals;
- Improving low-performing schools;
- Improving science, technology, engineering, and mathematics (STEM) education;
- Improving academic outcomes for students with disabilities;
- Improving academic outcomes for English learners (ELs);
- Improving parent and family engagement;
- Improving cost-effectiveness and productivity;
- Effective use of technology;
- Enabling broad adoption of effective practices; serving rural communities; and
- Supporting novice applicants.

Of these priorities, ten were proposed and one is added in response to public comment. Specifically, in order to expand the reach of the i3 program and encourage entities that have not applied previously for an i3 grant, we add a priority for ''novice i3 applicants,'' meaning applicants that have never received an i3 grant.

The Secretary will consider several factors when selecting the priorities to use in a given competition, including the Department's policy priorities, the need for new solutions in a particular priority area, the availability of other funding sources to support a particular priority area, and the results and lessons learned from i3 competitions.

This document also clarifies and strengthens the requirements and definitions for the i3 program. For example, the i3 program focuses on K–12 public education. Therefore, we clarify that all i3 grantees must implement practices that serve students who are in grades K–12 at some point during the funding period. Further, we strengthen the project evaluation requirement so that i3 grantees will conduct high-quality evaluations that rigorously measure the effect of an i3-supported practice, at the proposed level of scale, on a relevant outcome (as defined in this document). We also revise the evidence standards and definitions so that applicants can better understand what is required to meet each level of evidence.

Finally, this document establishes new selection criteria designed to ensure that applications selected for funding have the potential to generate substantial improvements in student achievement and other key outcomes and include well-articulated plans for the implementation and evaluation of the proposed project. Specifically, we include selection factors that consider a proposed project's significance, the quality of the project design, the management plan, and the project evaluation, as well as the qualifications of key personnel.

This document includes some revisions from the proposed priorities, requirements, definitions, and selection criteria (NPP) (published in the **Federal Register** on December 14, 2012 (77 FR 74407)). We discuss changes from the NPP in greater detail in the *Analysis of Comments and Changes.* We do not discuss minor technical or editorial changes.

Costs and Benefits: The Secretary believes that these priorities, requirements, definitions, and selection criteria do not impose significant costs on eligible local educational agencies (LEAs), nonprofit organizations, or other entities that would receive assistance through the i3 program.

The Secretary believes that the costs imposed on applicants by these priorities, requirements, definitions, and selection criteria are limited to paperwork burden related to preparing an application and that the benefits of implementing them outweigh any costs incurred by applicants. The costs of carrying out activities would be paid for with program funds and with matching funds provided by private-sector partners. Thus, the costs of implementation would not be a burden for any eligible applicants, including small entities. Please refer to the *Regulatory Impact Analysis* section in this preamble for a more complete discussion of the costs and benefits of this regulatory action.

This document provides an accounting statement that estimates that approximately $140 million will

transfer from the Federal Government to LEAs and nonprofit organizations under this program. Please refer to the accounting statement in this preamble for a more detailed discussion.

Purpose of Program: The i3 program is designed to generate and validate solutions to persistent educational challenges and to support the expansion of effective solutions across the country to serve substantially larger numbers of students. The central design element of the i3 program is its multi-tier structure that links the amount of funding that an applicant may receive to the quality of the evidence supporting the efficacy of the proposed project. Applicants proposing practices supported by limited evidence can receive relatively small grants that support the development and initial evaluation of promising practices and help to identify new solutions to pressing challenges; applicants proposing practices supported by evidence from rigorous evaluations, such as large randomized controlled trials, can receive sizable grants to support expansion across the Nation. This structure provides incentives for applicants to build evidence of effectiveness of their proposed projects and to address the barriers to serving more students across schools, districts, and States so that applicants can compete for more sizeable grants.

As importantly, all i3 projects are required to generate additional evidence of effectiveness. All i3 grantees must use part of their budgets to conduct independent evaluations (as defined in this document) of their projects. This ensures that projects funded under the i3 program contribute significantly to improving the information available to practitioners and policymakers about which practices work, for which types of students, and in what contexts.

The Department awards three types of grants under this program: ''Development'' grants, ''Validation'' grants, and ''Scale-up'' grants. These grants differ in terms of the level of prior evidence of effectiveness required for consideration of funding, the level of scale the funded project should reach, and consequently the amount of funding available to support the project. We provide an overview to clarify the expectations for each grant type:

1. Development grants provide funding to support the development or testing of practices that are supported by evidence of promise (as defined in this document) or strong theory (as defined in this document) and whose efficacy should be systematically studied. Development grants will support new or substantially more effective practices for addressing widely shared challenges. Development projects are novel and significant nationally, not projects that simply implement existing practices in additional locations or support needs that are primarily local in nature.

All Development grantees must evaluate the effectiveness of the project at the level of scale proposed in the application.

2. Validation grants provide funding to support expansion of projects supported by moderate evidence of effectiveness (as defined in this document) to the national or regional level (as defined in this document). Validation grants must further assess the effectiveness of the i3-supported practice through a rigorous evaluation, with particular focus on the populations for and the contexts in which the practice is most effective. We expect and consider it appropriate that each applicant will propose to use the Validation funding to build its capacity to deliver the i3-supported practice, particularly early in the funding period, to successfully reach the level of scale proposed in its application. Additionally, we expect each applicant to address any specific barriers to the growth or scaling of the organization or practice (including barriers related to cost-effectiveness) in order to deliver the i3-supported practice at the proposed level of scale and provide strategies to address these barriers as part of its proposed scaling plan.

All Validation grantees must evaluate the effectiveness of the practice that the supported project implements and expands. We expect that these evaluations will be conducted in a variety of contexts and for a variety of students, will identify the core elements of the practice, and will codify the practices to support adoption or replication by the applicant and other entities.

3. Scale-up grants provide funding to support expansion of projects supported by strong evidence of effectiveness (as defined in this document) to the national level (as defined in this document). In addition to improving outcomes for an increasing number of high-need students, Scale-up grants will generate information about the students and contexts for which a practice is most effective. We expect that Scale-up grants will increase practitioners' and policymakers' understanding of strategies that allow organizations or practices to expand quickly and efficiently while maintaining their effectiveness.

Similar to Validation grants, all Scale-up grantees must evaluate the effectiveness of the i3-supported practice that the project implements and expands; this is particularly important in instances in which the proposed project includes changing the i3-supported practice in order to more efficiently reach the proposed level of scale (for example, by developing technology-enabled training tools). The evaluation of a Scale-up grant must identify the core elements of, and codify, the i3-supported practice that the project implements to support adoption or replication by other entities. We also expect that evaluations of Scale-up grants will be conducted in a variety of contexts and for a variety of students in order to determine the context(s) and population(s) for which the i3-supported practice is most effective.

Program Authority: American Recovery and Reinvestment Act of 2009 (ARRA), Division A, Section 14007, Pub. L. 111–5.

We published a notice of proposed priorities, requirements, definitions, and selection criteria for this program in the **Federal Register** on December 14, 2012 (77 FR 74407). That notice contained background information and our reasons for proposing the particular priorities, requirements, definitions, and selection criteria.

Public Comment: In response to our invitation in the proposed priorities, requirements, definitions, and selection criteria, 37 parties submitted comments.

We group major issues according to subject. Generally, we do not address technical and other minor changes.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priorities, requirements, definitions, and selection criteria since publication of the proposed priorities, requirements, definitions, and selection criteria follows.

Priorities

Priorities—General

Comment: Two commenters expressed support for the i3 program's proposed approach of selecting from a variety of priorities, each containing several possible project focus areas, rather than using broad priorities as we have in the past. One commenter stated that the approach was strategic and would allow the Department to consider the sequencing of priority areas across years. One commenter stated that the proposed approach would allow flexibility and creativity that would facilitate wholesale transformation of the education field.

Two commenters disagreed with the proposed approach. One stated that allowing the Department to select from a wide range of priorities and focus

areas renders the priorities meaningless, and recommended that the Department focus on a smaller range of priorities that are designed to close achievement gaps in low-performing schools. Another commenter expressed concern that the Department's proposed approach would narrow the range of projects funded under the i3 program by limiting the focus of the priorities to preconceived ideas of what works best in education. The commenter suggested that focusing on areas of acute need or encouraging applicants to address particular challenges would disadvantage applicants proposing more comprehensive approaches.

Discussion: We appreciate the support from commenters regarding the proposed structure of the priorities. The flexibility to select from a variety of possible project focus areas (i.e., the subparts under each priority) within a given priority will allow the Secretary to prioritize areas based on the education environment in a given year. This flexibility will ensure that the i3 program reflects priorities that are important and relevant to the field on an ongoing basis.

We recognize that the priorities have several subparts; however the priorities will not be rendered meaningless because the notice inviting applications for each competition will provide a concise list of the priorities that establish a coherent and manageable focus. Further, we do not agree that this approach will narrow the range of projects funded under the i3 program, nor will it disadvantage comprehensive projects because the priorities—although specific about the need or challenge a project must address—do not prescribe the intervention or practice that an applicant could propose. Moreover, the i3 program may include a broader priority if the particular issue warrants it.

Changes: None.

Comment: One commenter stated that achieving college, career, and citizenship-ready skills should be the core focus of the i3 program. The commenter explained that these skills are necessary for deeper learning and lifelong success. The commenter suggested that requiring all i3 projects to produce measures aligned with these outcomes would benefit the i3 program because the Department could then make comparisons across projects.

Discussion: We agree that it is essential for students to be prepared to think critically, solve complex problems, and communicate effectively. While these ''deeper learning'' skills are important for long-term success, given the diversity of the projects under the i3 program, applicants have discretion in determining the specific outcomes and measures that are relevant to their proposed projects. Moreover, nothing in the authorizing statute or the priorities, requirements, definitions, or selection criteria for this program prohibits eligible applicants from using deeper learning outcomes to evaluate their projects. In addition, subparts (d) and (e) of proposed priority 8 (Effective Use of Technology) are explicitly focused on the types of skills that are of interest to the commenter.

Further, ARRA established the i3 program to expand the implementation of, and investment in, innovative practices that are demonstrated to improve student achievement or student growth, close achievement gaps, decrease dropout rates, or increase high school graduation rates. Although we are not requiring all applicants to respond to any one specific measure, all i3 grantees are required to implement practices that are designed to improve one of these measures for high-need students (as defined in this document). By providing grantees the discretion to determine which measure is most appropriate to their projects, we avoid compelling grantees to adopt measures that do not fit their project and strike a reasonable balance between providing an opportunity to compare similar projects without greatly limiting the types of projects that we could fund.

Changes: None.

Comment: A few commenters recommended the Department add other priorities, including priorities that focus on improving college access, transitioning between secondary and postsecondary schooling, promoting diversity, and implementing new models for teaching and learning that are based on the science of learning and research on youth development.

One commenter noted the absence of a priority focused on assessment literacy and suggested that the Department either create an additional priority focused on building educators' assessment literacy or include references to assessment literacy in proposed priorities 1 (Improving the Effectiveness of Teachers or Principals), 2 (Improving Low-Performing Schools), 3 (Improving Science, Technology, Engineering, and Mathematics (STEM) Education), and 5 (Improving Academic Outcomes for English Learners (ELs)), as well as the definitions of ''highly effective teacher'' and ''highly effective principal.'' The commenter also discussed the Accessible Portable Item Profile (APIP) standards and the importance of ensuring that the delivery of digital test content is tailored to each student's specific accessibility needs so that students can demonstrate what they know and can do. The commenter suggested the Department consider whether the use of APIP should be a separate priority or a requirement for any applicant addressing proposed priorities 2 (Improving Low-Performing Schools), 4 (Improving Academic Outcomes for Students with Disabilities), 5 (Improving Academic Outcomes for English Learners (ELs)), 7 (Improving Cost Effectiveness and Productivity), and 8 (Effective Use of Technology).

Discussion: Although we recognize the importance of the issues and topics mentioned by the commenters, we decline to include additional priorities or revise the proposed priorities in the ways suggested.

As noted in the NPP, in any i3 competition we may include priorities from the notice of final supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on December 15, 2010 (75 FR 78486), and corrected on May 12, 2011 (76 FR 27637) (Supplemental Priorities). Because the Supplemental Priorities include priorities on increasing postsecondary success, including the academic preparation for and persistence in postsecondary education, and promoting diversity, we conclude that it is not necessary for the Department to develop new priorities to address these areas here. In addition, there is nothing in the priorities that would preclude an eligible applicant from proposing projects that promote school and classroom diversity, provided that the proposed project otherwise meets the requirements in the relevant priority. Further, because promoting diversity aligns with many of the other priorities we establish, we do not think it is necessary to add a new priority to address this topic.

We also do not consider it necessary to create a separate priority that focuses on new models for teaching and learning because many of the priorities in this document would allow applicants to propose new models for teaching and learning while addressing a content-specific challenge. For example, under priority 1 (Improving the Effectiveness of Teachers or Principals), we include a subpart on developing new models for teacher preparation. Similarly, under priority 9 (Effective Use of Technology), we include a subpart on developing and implementing technology-enabled strategies for teaching and learning concepts and content that are difficult to teach using traditional approaches. We

think that the development and implementation of new models for teaching and learning is most effective when the models address a specific challenge.

With regard to the recommendation that we include assessment literacy in several priority areas, although we agree that it is important for teachers and principals to understand and use data and assessment results to improve teaching, we do not think it is necessary to prescribe assessment literacy as a requirement because nothing prohibits applicants from addressing it under the priorities as written. Similarly, with regard to the APIP standards, we agree that assessments should be designed to be accessible to all students and that the use of standards to ensure interoperability is critical to the portability of assessments. While we expect any i3 grant that is developing and implementing assessments to consider accessibility standards, given the variety of projects that can be funded under the i3 program, we do not think it is appropriate for the Department to prescribe a specific set of standards.

Changes: None.

Comment: Four commenters suggested revisions to several of the proposed priorities that would encourage the use of the principles of universal design for learning (UDL). Specifically, these commenters provided revised text incorporating UDL into subparts under proposed priorities 1 (Improving the Effectiveness of Teachers or Principals), 2 (Improving Low-Performing Schools), 3 (Improving Science, Technology, Engineering, and Mathematics (STEM) Education), 4 (Improving Academic Outcomes for Students with Disabilities), 5 (Improving Academic Outcomes for English Learners (ELs)), 6 (Improving Parent and Family Engagement), and 8 (Effective Use of Technology). One commenter explained that these revisions would support the inclusion of students with disabilities and their interests in general education and the i3 program.

Discussion: There is nothing in the priorities precluding an eligible applicant from proposing projects that use principles of UDL or that support greater inclusion of students with disabilities, provided that the proposed project otherwise meets the requirements of the relevant priority. Given the variety of projects that can be funded under the i3 program and our intent to maximize the number of potential applicants, we do not want to prescribe a specific principle of learning.

Changes: None.

Comment: One commenter recommended the Department revise priorities 1 (Improving the Effectiveness of Teachers or Principals), 3 (Improving Science, Technology, Engineering, and Mathematics (STEM) Education), 5 (Improving Academic Outcomes for English Learners (ELs)), and 8 (Effective Use of Technology) to add specific references to the use of high-quality, multiplatform digital content and services. The commenter explained that digital tools make learning accessible to all students and are essential to teacher preparation and development. Further, the commenter stated that multiplatform digital content improves the services provided to students with different learning needs.

Discussion: There is nothing in these priorities that would preclude an eligible applicant from proposing projects that utilize multiplatform digital content and services, provided that the proposed project otherwise meets the requirements of the relevant priority. Given the variety of projects that can be funded under the i3 program and our intent to maximize the number of potential applicants, we do not want to prescribe specific tools or approaches that must be used.

Changes: None.

Comment: One commenter supported the inclusion of subparts focused on capacity building in proposed priority 2 (Improving Low-Performing Schools) and recommended the Department include similar provisions under proposed priorities 1 (Improving the Effectiveness of Teachers or Principals), 3 (Improving Science, Technology, Engineering, and Mathematics (STEM) Education), 4 (Improving Academic Outcomes for Students with Disabilities), 5 (Improving Academic Outcomes for English Learners (ELs)), and 6 (Improving Parent and Family Engagement). The commenter stated that projects under these priorities would benefit from a similar capacity building to support external relationships at the partner, district, or State level.

Discussion: The i3 program supports the expansion and scaling of effective programs by providing sufficient funding to build organizational capacity and to overcome barriers to reaching additional students. The different tiers of i3 grants provide a continuum for funding effective programs that spans initial, localized development to implementation on a national scale. The hope is that more effective practices will replace less effective practices and lead to increases in student achievement and improvements in other student outcomes. Thus, a general expectation under the i3 program, particularly for the Scale-up and Validation grants, is that applicants consider how to build their capacity both internally and externally to scale their projects to serve more students. For that reason, we do not think it is necessary to include subparts in all of the priorities identified by the commenter in order to encourage grantees to build external relationships.

Additionally, one of the goals of the i3 program is to demonstrate how to effectively build capacity amongst key entities in K–12 public education (e.g., educators, schools, parents) in order to improve student achievement for high-need students. However, the Department believes that this is best accomplished without being overly prescriptive about the role of outside entities.

We proposed two subparts under priority 2 (Improving Low-Performing Schools) that are specific to capacity building and external partners because initiatives to turn around low-performing schools often benefit from the involvement of diverse stakeholders. To clarify that the intent of these subparts is to improve school-, district-, and State-level capacity to support school turnaround efforts, we are making technical revisions to subparts (e) and (f) of the priority.

Changes: We have revised subpart (e) under priority 2 (Improving Low-Performing Schools) to clarify that projects must support the efforts of low-performing schools or districts in their turnaround efforts by increasing access to, and use of, high-quality partners.

We also have revised subpart (f) under this priority to clarify that projects must be designed to increase district- or State-level capacity to turn around low-performing schools, which would encompass, among other things, improvements to State and district support and oversight of turnaround efforts.

Comment: One commenter questioned whether the Department has the authority to include priorities or definitions that reference diverse student populations, racial and ethnic groups, and gender. The commenter further stated that it is generally illegal for government programs to show favoritism or use classifications based on race, ethnicity, or sex.

Discussion: We agree that priority 3 (Improving Science, Technology, Engineering, and Mathematics (STEM) Education), and the requirement that all i3 grants implement projects that are designed to improve student achievement for high-need students (as

defined in this document) support investments in and encourage innovative strategies that are designed to increase access to rigorous educational opportunities for high-need students or individuals traditionally underrepresented in STEM fields. However, we do not agree that this priority and requirement show any favoritism toward a specific population group. Furthermore, recipients of any Department of Education funding, including i3 funds, must comply with all of the nondiscrimination requirements set forth in Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975. On December 2, 2011, the Departments of Education and Justice jointly issued guidance that explains how educational institutions can use generalized race-based approaches (i.e., approaches that employ racial criteria, such as the overall racial composition of neighborhoods, but do not involve decision-making on the basis of any individual student's race or treat individual students differently because of their race) within the framework of Title VI of the Civil Rights Act of 1964. The ''Guidance on the Voluntary Use of Race to Achieve Diversity and Avoid Racial Isolation in Elementary and Secondary Schools'' is available on the Department's Web site at *www.ed.gov/ocr/docs/guidance-ese-201111.pdf*. For additional information and assistance on civil rights laws that may impose additional requirements on recipients and subrecipients of Federal financial assistance, visit *www2.ed.gov/policy/gen/leg/recovery/notices/civil-rights.html*.

Changes: None.

Comment: In response to the Department's specific request for comment, a few commenters supported the establishment of a priority for applicants that have never received, or partnered with, an entity that has received a grant under the i3 program. The commenters stated that such a priority would increase the pool of innovative applicants. However, one commenter expressed concern that such a priority would discourage applicants from partnering with multiple entities. The commenter also suggested that entities proposing to provide effective services to students should be encouraged to continue to partner with multiple entities regardless of whether they have been part of an i3 grant in the past.

Discussion: We recognize that the dual goals of supporting practices that are both innovative and evidence-based have the potential to limit the universe of applicants. In order to expand the reach of the i3 program and encourage entities that have not applied previously for an i3 grant, we will add a priority for ''novice i3 applicants,'' meaning applicants that have never received an i3 grant. Although this priority will provide an incentive for new applicants, we do not think it will discourage applicants with multiple partners from applying for i3 grants, particularly given the high volume of applications the i3 program, particularly the Development grant competition, typically receives. However, because we do not want to discourage applicants from seeking partnerships, we will focus the priority only on entities that have never received an i3 grant directly.

Changes: We have established a priority (Supporting Novice i3 Applicants) for an eligible applicant that has never directly received a grant under this program. We may use this priority to establish a separate competition for applicants that have never received an i3 grant or to select an application that meets this priority over an application of comparable merit that does not meet this priority (see 34 CFR 75.105(c)(2)(ii)).

Proposed Priority 1—Improving the Effectiveness of Teachers or Principals

Comment: One commenter recommended including this priority because it supports projects that will bring more highly effective teachers into high-need schools.

Discussion: We appreciate the commenter's support for this priority, and agree with the importance of ensuring that students have access to highly effective teachers and principals. That is why this priority focuses on all dimensions of the teacher and principal career path and seeks to identify effective methods for recruiting, preparing, supporting, evaluating, and retaining effective principals and teachers, particularly at schools that serve high-need students.

Changes: None.

Comment: One commenter proposed specific revisions to several of the subparts under this priority to focus more on school leadership, including developing new or improved models for principal preparation, such as leading instruction, aligning resources across classrooms, managing talent, and increasing teacher retention. The commenter proposed adding a new subpart to support projects that develop models of teacher and principal certification and licensure. The commenter also suggested that we revise subpart (c) to include models for the induction and support of novice principals in addition to novice teachers.

Discussion: We agree with the commenter about the importance of strong school leadership. Therefore, we have revised the priority to include a new subpart that specifically focuses on principal preparation and to clarify that projects under subpart (c) may propose models of induction and support that serve either teachers or principals.

However, we decline to add a subpart regarding the development of models for teacher and principal certification and licensures. Certification and licensure are typically State-level functions, and it is not clear that an applicant for an i3 program could or should develop such models, particularly as eligible entities for i3 grants do not include State agencies.

Changes: We have created a new subpart (c) that specifically focuses on principal preparation and training. Additionally, we have revised proposed subpart (c) to include models of induction and support that serve principals and re-designated it as subpart (d). With the addition of the new subpart, we re-designate proposed subparts (d)–(i) so that they are now labeled (e)–(j), respectively.

Comment: One commenter recommended that the Department require that projects focus on the recruitment of teachers to also address teacher retention. The commenter stated that the greater challenge in high-need, low-performing schools is teacher retention. Thus, according to the commenter, in order for recruitment efforts to be cost-effective, projects must also include components that provide ongoing investment in newly recruited teachers to ensure that they remain in the profession for a minimum of three to five years. The commenter also suggested that this priority focus on programs that begin recruitment and preparation for future teachers as early as middle and high school.

Discussion: We agree with the commenter that recruitment without effective induction, support, or other retention strategies would have a limited impact. However, we also recognize that the parties responsible for recruitment tend to be different than those responsible for retention. That is why we include different subparts under the priority to focus on the different dimensions of a teacher's career path. Although subpart (a) focuses on recruitment models and subpart (d) (initially proposed as subpart (c)) addresses models of induction and support to increase teacher retention, nothing in either

subpart prohibits an applicant from proposing to address both recruitment and retention.

With regard to adding a subpart to this priority for projects that begin teacher recruitment as early as middle or high school, it is not clear that a project with this approach could be implemented and evaluated in the maximum funding period for a grant. The Department's current regulations authorize the Secretary to approve a project period up to 60 months (see 34 CFR 75.250). As most teachers complete postsecondary education, a project focusing on teacher recruitment with middle school students would need a minimum of 120 months (assuming one year of middle school, four years of high school, four years of postsecondary education, and one year of work). Thus, the necessary project period would be significantly longer than what the Department's current regulations allow and we do not think it would be prudent to add a subpart that would require a waiver of the regulations in order to use it. In addition, we are not aware of research that indicates that recruitment at such an early age is likely to be particularly effective.

Changes: None.

Comment: One commenter suggested revising subpart (b) of this priority to specify that teacher training include practices addressing family and community engagement.

Discussion: We agree with the commenter about the importance of including parent and community engagement in teacher training programs. However, we think that training is most effective when it is specific to the needs of the students and the surrounding community. For that reason, we already include teacher training related to parent and family engagement at the school- or district-level instead of the pre-service or preparation stage. Specifically, subpart (b) under priority 6 (Improving Parent and Family Engagement) would support projects implementing initiatives that are designed to enhance skills and competencies of school staff to build relationships and collaborate with families.

Changes: None.

Comment: One commenter suggested revising proposed subpart (f) to specify that the supports must be evidence-based and address cognitive, social, emotional, and behavioral barriers to student achievement. The commenter also recommended adding a new subpart under this priority for projects that develop high-quality pathways into schools. These would include non-university-based programs that recruit, select, train, and recommend teachers or principals to the State for certification and licensure, and full-time residency programs that develop national service members, community volunteers, and part-time educators to become credentialed teachers.

Discussion: The i3 program already requires that all projects meet certain evidence standards. Therefore, we do not think it is necessary to specify in this priority that the projects must be evidence-based. With regard to the second recommendation, as non-university-based programs could address subpart (a) under this priority, we do not think it is necessary to create a separate subpart that targets a specific type of entity or program.

Changes: None.

Comment: One commenter recommended that proposed subpart (g), increasing the equitable distribution of effective teachers or principals across schools, should also include efforts to increase the actual number of effective teachers within a high-need district. The commenter noted that, without an equal emphasis on increasing the number of effective teachers, a project could meet this priority by redistributing a relatively small number of highly effective teachers. The commenter stated that professional learning communities and induction programs for early career teachers should be supported in order to increase the number of effective teachers within a high-need district.

Discussion: We agree with the commenter that the initial wording for proposed subpart (g) (now subpart (h)) could result in projects that redistribute only a small number of highly effective teachers without significantly increasing students' access to them. Therefore, we have revised the subpart to focus on student access to effective teachers or principals.

We also agree with the commenter about the importance of increasing the total number of effective teachers in high-need districts. However, as subparts (b), (c), and (g) (initially proposed as subpart (f)) would support projects designed to increase the number of highly effective teachers, we do not think it is necessary to include the specific strategies recommended by the commenter in current subpart (h) (initially proposed as subpart (g)).

Changes: We have revised current subpart (h) (initially proposed as subpart (g)) under this priority to clarify that projects addressing this subpart must increase the equitable access to effective teachers or principals for low-income and high-need students, which may include increasing the equitable distribution of effective teachers or principals for low-income and high-need students across schools.

Comment: None.

Discussion: Under this priority, subpart (i) (initially proposed as subpart (h)) addresses the development and implementation of models that improve school conditions for teaching and learning. We intend for this subpart to promote the development and implementation of projects that allow highly effective teachers to serve more students. With this change, we have removed the explicit reference to improving conditions for teaching and learning because we consider it to be included in the identified strategies. For example, a new staffing model that relieves effective teachers of some of their administrative responsibilities in order to enable them to teach online classes to students in another school could extend the influence of highly effective teachers. We also have revised this subpart to clarify that, in addressing this subpart, projects could focus on developing and implementing strategies that allow effective teachers either to serve more students or reduce the burdens or challenges that impede them from doing so.

Changes: We have revised subpart (i) (initially proposed as subpart (h)) to clarify the types of projects it is intended to address. Specifically, this subpart will support projects that extend highly effective teachers' reach to serve more students, including strategies such as new course designs, staffing models, technology platforms, or new opportunities for collaboration that allow highly effective teachers to reach more students, or approaches or tools that reduce administrative and other burdens while maintaining or improving teacher effectiveness and efficiency.

Comment: One commenter stated that the demographic shift in the Nation is increasing the number of multilingual and multicultural classrooms and recommended that the Department address this shift by incorporating language into this priority addressing preparing teachers to work with diverse populations.

Discussion: We agree that it is important that teachers are prepared to work with diverse student populations, particularly given current demographic shifts. There is nothing that would preclude an eligible applicant from proposing projects that improve the effectiveness of teachers by increasing their ability to work with diverse student populations. However, in order to ensure flexibility for all potential applicants responding to this priority,

we decline to specify the types of student populations, which could include diverse student populations, with whom teachers must be prepared work.

Changes: None.

Comment: Two commenters proposed the addition of a new subpart for projects that would improve the development of teachers and external partners working to implement expanded learning opportunities in schools. Another commenter expressed support for several of the subparts but recommended the addition of a new subpart for projects that develop models for labor-management partnerships designed to improve teacher effectiveness by having expert teachers mentor and evaluate their peers.

Discussion: The commenters' recommendations for new subparts are already addressed by other priorities. For example, subpart (a) of priority 2 (Improving Low-Performing Schools) supports projects that expand learning opportunities for both teachers and students. Similarly, applicants could propose projects that focus on labor-management partnerships and peer evaluations under subpart (f) (initially proposed as subpart (e)), provided the proposed projects otherwise meet the requirements of the subpart. Thus, we do not think it is necessary to add new subparts under priority 1 (Improving the Effectiveness of Teachers or Principals).

Changes: None.

Comment: One commenter expressed concern that this priority does not encourage teachers to use practices that would drive the development and implementation of new ''learning environments.'' The commenter recommended the i3 program support projects that would equip teachers with knowledge of the science of learning and youth development and with the skills needed to analyze data and develop assessments, to advance the use of expanded learning time, to collaborate effectively, and to make better use of technology.

Discussion: We agree that it is important for teachers to have the knowledge and skills suggested by the commenter. However, because these topics are addressed in other priorities, we decline to add additional subparts under this priority. For example, priority 2 (Improving Low-Performing Schools) includes subparts that focus on extending and enhancing learning time and priority 8 (Effective Use of Technology) includes subparts that focus on developing methods and resources to increase the use and integration of technology to improve teaching and learning.

Changes: None.

Comment: None.

Discussion: As part of our internal discussion of the comments on this priority, we noted that a number of the proposed subparts refer to ''developing'' models or methods. As all i3 grantees must implement the practices they develop to serve students who are in grades K–12 at some point during the funding period, we have revised these subparts to clarify that the projects under these subparts must both develop *and* implement the proposed models or methods.

Changes: We have revised subparts (a), (b), and (d) (initially proposed as subpart (c)) from ''developing'' to ''developing and implementing'' in order to clarify our intent that applications addressing these subparts must implement the practices that they develop during the project period.

Comment: None.

Discussion: As part of our internal discussion of the comments on this priority, we noted that subpart (f) (initially proposed as subpart (e)), included an inconsistency in the use of ''teachers or principals.'' Specifically, the subpart focused on designing and implementing ''teacher *or* principal evaluation systems,'' but also referred to feedback that guides professional development for ''teachers *and* principals.'' To ensure that applicants understand that they may focus on teachers or principals when submitting projects under this subpart, we have revised it so that we consistently refer to ''teachers or principals.''

Changes: We have revised subpart (f) (initially proposed as subpart (e)) from ''* * * guides professional development for teachers and principals'' to ''* * * guides professional development for teachers or principals'' in order to clarify our intent that applications addressing this subpart may focus on either teacher or principal evaluation systems.

Proposed Priority 2—Improving Low-Performing Schools

Comment: One commenter recommended that the Department revise this proposed priority to include the use of arts education to academically engage students as an example of strengthening the instructional program in a whole-school model. The commenter also recommended adding a subpart for projects proposing to develop arts education programs and improve the skills of arts educators. Another commenter offered a similar recommendation, suggesting the Department revise subparts (a) and (d) of this priority to include a focus on student's health and nutrition as a part of designing whole-school models.

Discussion: Subpart (a) provides examples of strategies that may be used in whole school models. However, these strategies are broad, concerning changes to a school's design, instructional program, staffing, or culture. We do not think it is appropriate for the Department to prescribe the specifics of how applicants must implement these strategies (*e.g.,* arts education), because we want to ensure applicants have as much flexibility as possible to propose whole-school models that best meet the needs of the students and schools they are proposing to serve. As nothing in this priority prohibits an applicant from proposing to use arts education to strengthen the instructional program in a whole-school model, we do not believe an additional subpart is necessary.

We agree with the commenter that a student's health and nutrition affects the student's ability to learn. That is why proposed subpart (a) references strategies that address non-academic factors that affect student learning and proposed subpart (d) focuses on services and strategies that address non-academic barriers to student learning. Because health and nutrition services may be addressed under this priority, we do not think it is necessary to create a separate subpart that focuses only on health services. Moreover, as noted previously, applicants should have the flexibility to identify the specific non-academic barriers and strategies to address those barriers that are relevant to their particular project.

However, we have revised subpart (d) to clarify that projects also may focus on mitigating the effects of poverty, including health and nutrition issues, on student engagement in learning. In addition, because we think it is important that the social supports provided under this priority relate to improved student outcomes, we have revised subpart (d) to focus on the intended outcomes rather than the specific type of strategies that an applicant must be use.

Changes: We have revised subpart (d) to focus on projects that are designed to improve students' non-cognitive abilities and enhance student engagement in learning, or that mitigate the effects of poverty, including physical, mental, or emotional health issues, on student engagement in learning.

Comment: One commenter discussed the distinction between whole-school reform efforts and ''wraparound'' social supports that might result in targeted

interventions that do not affect all students in a school. The commenter encouraged the Department to look beyond whole-school efforts because some interventions may not be as efficient or effective if offered to an entire school population.

Discussion: We agree that whole-school reform models may not be the most appropriate option for all schools. That is why under this priority we include multiple subparts that address different types of interventions for turning around low-performing schools. However, we disagree with the commenter's conclusion that a whole-school reform model requires that all students receive the same set of services or interventions. For example, a whole school reform model could strengthen a school's instructional program by providing personalized learning experiences that address each student's unique needs. Under this scenario, a whole school reform model would be used to provide each student with a unique, as opposed to identical, set of services.

Additionally, we consider whole-school reform to be a powerful and important approach that is effective, in certain contexts, in improving student outcomes. Therefore, we believe it is important to include a subpart in this priority that specifically addresses whole-school reform models and have revised subpart (a) to clarify that the intent is to support projects that lead to significant and sustained improvement in individual student performance and overall school performance and culture.

Although we agree that whole-school reform efforts are distinct from targeted approaches to reforming low-performing schools, we also believe that it is essential for applicants to ensure that their proposed projects complement the broader turnaround efforts of the school, LEA, or State. We have revised the requirements of this priority to clarify this expectation.

Changes: We have revised subpart (a) to clarify that projects addressing subpart (a) must implement processes that lead to significant and substantial improvement in individual student performance and overall school performance and culture. In addition, we have provided examples of the types of strategies applicants may incorporate into their proposed whole-school models. We also have revised the requirements of priority 2 to include a condition that projects complement broader reform efforts for turning around low-performing schools.

Comment: Five commenters recommended the Department revise the language in subpart (a) ''redesigning the school day, week, or year'' to ''extending or expanding the school day, week, or year'' in order to clarify that before-, after-, and summer school programs would meet this priority. Three of these commenters also suggested a similar revision to subpart (e). One commenter noted that extending the school year might reduce summer learning loss, and provide additional time for high school students to focus more on work-based learning, service-learning, or various other learning opportunities.

Discussion: Applicants may propose projects under subpart (a) that redesign the school day by extending or expanding the school day, week, or year, including before-, after-, and summer school programs, provided their proposed projects meet the requirements of the priority. We decline to change the language of subpart (a) as the commenter suggested because we do not think adding time to the school day, week, or year, unless done in conjunction with other strategies or reforms, is sufficient to meet the requirements of this priority.

However, we recognize that extending learning time is one way that schools can change their organizational design, and we have therefore revised subpart (b) to include a greater focus on organizational design. As proposed, subpart (b) focused on changing elements of a school's organizational design to mitigate non-academic barriers to learning through strategies such as differentiating staff roles, changing student groups, or enhancing instructional time. Because subpart (a) addresses particular approaches for school turnaround that can be undertaken within a school's existing organization, we have modified subpart (b) to include a greater focus on extending and enhancing instructional time and the organizational implications associated with improving instruction by extending learning time.

Changes: We have revised subpart (b) to support projects that would change elements of the school's organizational design to improve instruction by differentiating staff roles and extending and enhancing instructional time.

Comment: One commenter suggested that, in addition to increasing the rigor of instructional practices, subpart (a) should address students' access to rigorous coursework at the secondary level. The commenter also recommended that the Department create a new subpart under this priority to support competency-based systems that measure the effects of these practices on increasing graduation rates and student learning.

Discussion: Nothing in this priority prohibits an applicant from proposing to strengthen the instructional program in a whole-school model by increasing students' access to rigorous coursework at the secondary level or implementing a competency-based system. Because these activities are permissible under subpart (a) and we want to ensure applicants have as much flexibility as possible to propose whole-school models that best meet the needs of the students and schools they are proposing to serve, we do not think it is necessary to revise subpart (a) or establish a separate subpart that addresses only these approaches.

Changes: None.

Comment: One commenter suggested adding personalized instruction enabled by technology as an example of a reform strategy in subpart (a). The commenter noted that using differentiated instructional content allows for the effective and efficient use of data in determining the needs of students struggling in low-performing schools.

Discussion: As noted in response to a prior comment on priority 2, we do not think it is appropriate for the Department to prescribe how applicants would strengthen the instructional programs because we think it is important for applicants to have as much flexibility as possible to propose whole-school models that best meet the needs of the students and schools they are proposing to serve. To that end, we provide applicants discretion in proposing how they would strengthen the instructional program in a whole-school model; and nothing prohibits applicants from using personalized instruction. For these reasons, we decline to revise subpart (a). However, we have revised subpart (a) under priority 8 (Effective Use of Technology) to clarify that to meet subpart (a), projects must focus on personalized instruction. As the subpart language maintains that the learning experiences must be adaptive and self-improving, we do not think this change loses the subpart's focus on learning experiences that improve or adapt based on students' needs in real-time.

Changes: We have revised subpart (a) under priority 8 (Effective Use of Technology) to clarify that the learning experiences must be personalized to individual students' learning needs, as opposed to simply providing adaptive learning experiences.

Comment: Three commenters suggested that the Department clarify that the reference to external partners in subpart (e) includes results-driven organizations, intermediaries,

professional providers, national service members, and community volunteers.

Discussion: We think an applicant is best suited to select the external providers or partners for its project. Because we do not want to narrow the potential for external partnerships, we decline to list the types of external partners with which an applicant may work.

To ensure projects under subpart (e) are designed to increase schools' and districts' access to high-quality partners, we have revised this subpart to focus on the intended outcomes for schools and districts rather than on developing the capacity of external partners.

Changes: As noted in response to a prior comment on priority 2, we have revised subpart (e) to clarify that projects addressing it must support low-performing schools or districts in their turnaround efforts by increasing access to and use of high-quality partners.

Comment: One commenter recommended this priority be revised to support fundamental changes to schools' governance and management structures that impede school innovations or educator and student engagement.

Discussion: Subpart (f) under this priority supports projects that are designed to increase capacity at the school, district, and State levels to improve the support and oversight for turnaround efforts. Thus, projects could include a focus on improving governance and management structures that may impede a school's turnaround efforts. To clarify that applicants may propose a variety of approaches under this subpart (e.g., changing governance and management structures), we have revised it to focus on the intended outcomes of increased capacity (i.e., better support and oversight), thus encouraging applicants to develop approaches that are appropriate to their specific contexts and challenges.

Changes: As noted previously, we have revised subpart (f) to clarify that projects must be designed to increase district- or State-level capacity to turn around low-performing schools, including improvements to State and district support and oversight of turnaround efforts.

Comment: None.

Discussion: Although recent reports indicate that the Nation's dropout rate is decreasing, the rate is still much higher than in other developed countries. To address this, we have added a subpart that specifically focuses on serving low-performing high schools and their turnaround efforts. This subpart is written broadly to provide applicants discretion in how best to serve these schools and may include projects that focus on the use of early warning indicators to identify students who are at risk of dropping out.

Changes: We have added subpart (g) to this priority for projects that support the implementation of turnaround efforts in secondary schools.

Proposed Priority 3—Improving Science, Technology, Engineering, and Mathematics (STEM) Education

Comment: Two commenters expressed general support for this priority. One commenter stated that K–12 education must continue to be a priority in Federal programs and noted that the i3 program has the potential to identify effective science instruction programs that could make use of informal learning institutions, such as science centers and museums. One commenter reflected on the need for high quality teachers in STEM subject areas, and applauded the Department's recognition of this need.

Discussion: We appreciate the commenter's support for this priority and agree with the importance of ensuring students' access to high-quality STEM education. That is why this priority focuses on students' access to rigorous STEM coursework and learning, redesigning STEM course content and instructional practices, and improving the STEM teacher pipeline. With regard to the need for high quality teachers in STEM subject areas, subpart (c) targets projects that propose to develop new methods and resources for recruiting individuals with STEM expertise into teaching.

Also, as noted previously, all i3 grantees must implement (as well as develop) practices that serve K–12 students at some point during the funding period. Thus, we have revised this subpart to clarify that the projects must develop *and implement* methods and resources for recruiting individuals with STEM expertise into teaching. Similarly, we have revised subpart (g) to clarify that teachers or educators of STEM subjects who participate in projects addressing subpart (g) must receive, not just have increased opportunities for, high-quality preparation and teacher development.

Changes: We have revised subpart (c) to focus on projects that develop *and* implement new methods and resources for recruiting individuals with STEM expertise into teaching. We also have revised subpart (g) to clarify that projects addressing subpart (g) must increase the number of individuals from groups traditionally underrepresented in STEM, including minorities, individuals with disabilities, and women, who are teachers or educators of STEM subjects and receive high-quality preparation or professional development.

Comment: Three commenters recommended that the Department include increased access to coursework in environmental literacy as a subpart under this priority. The commenters stressed that environmental literacy is critical to the Nation's economy and noted the correlation between environmental education and student engagement and achievement in STEM subjects.

Discussion: We recognize the importance of environmental education, and it is part of STEM education. As subpart (a) focuses on providing students with increased access to rigorous and engaging coursework in STEM, which could include environmental education, and in order to ensure applicants have flexibility in responding to this subpart, we do not think it is appropriate to add a separate subpart that focuses only on one STEM subject.

Changes: None.

Comment: Two commenters discussed concerns regarding student access to STEM education. One commenter recommended that the Department encourage the development and use of more online learning tools to increase access to the most effective STEM courses, while the other commenter suggested that the Department amend subparts (a), (b), and (d) to require applicants to use high-quality multiplatform digital content and services.

Discussion: Nothing in this priority or the authorizing statute prohibits an applicant from proposing to use online learning or multiplatform digital content to increase student access to STEM content. Thus, applicants have the discretion to propose to use the approaches specified by the commenter. We decline to make the proposed revisions, however, because we do not want to prescribe the specific tools or approaches an applicant must use to increase students' access to STEM content.

Changes: None.

Comment: One commenter recommended that, in addition to a focus on expanding opportunities for high-quality out-of-school and extended-day activities under subpart (e), the Department require STEM-related community problem-solving and service learning. Additionally, the commenter suggested the Department include a subpart for projects designed to integrate STEM learning across other K–12 academic areas.

Discussion: Nothing in this priority or the authorizing statute prohibits an applicant from proposing to use service learning in responding to subpart (e), so long as the proposed project is designed to provide students with opportunities for deliberate practice that increases STEM learning, engagement, and expertise. We decline to make the proposed, specific revisions because we do not want to narrow or prescribe the types of out-of-school or extended-day activities that an applicant may propose.

Similarly, we decline to add a subpart that would require applicants to integrate STEM learning into other K–12 academic areas because we do not want to prescribe how applicants would propose to increase student access to rigorous or engaging coursework in STEM. Further, nothing in the statute or priorities prohibits an applicant from proposing a project that integrates STEM learning across other K–12 academic areas. For example, under subparts (a) and (b) of this priority as well as subpart (a) of priority 2 (Improving Low-Performing Schools), an applicant could propose integrating STEM across other K–12 academic areas, provided the applicant meets the requirements of the priority under which it is submitting its application.

Changes: None.

Comment: Two commenters recommended adding language to subpart (e) that would increase opportunities for high-quality expanded learning opportunities, including extending the day, week, or year, or before-, after-, or summer school programs. The commenters stated that implementing expanded learning opportunities will provide students with a well-rounded education that focuses on multiple STEM subjects.

Discussion: We agree that expanding STEM learning opportunities may include extending the school day, week, or year, or implementing before-, after-, or summer school programs. Therefore, we have revised the priority to include this as an example of an approach that may be used to address subpart (e).

Changes: We have revised subpart (e) to clarify that expanding STEM learning opportunities may include extending the day, week, or year, or implementing before- or after-school or summer learning programs.

Proposed Priority 4—Improving Academic Outcomes for Students With Disabilities

Comment: Four commenters proposed specific revisions to this proposed priority to reinforce the importance of ensuring that students with disabilities are provided with opportunities to participate and progress in general education classrooms. Additionally, the commenters suggested that subpart (d) include transition and postsecondary programs, and they suggested including two new subparts addressing post-school employment data collection and the implementation of school-wide initiatives that benefit all students, such as UDL, multi-tiered systems of supports, and positive behavior interventions and supports.

Discussion: We agree with the commenters about the importance of providing students with disabilities with opportunities to participate in general education; and therefore have revised subpart (c) accordingly. Specifically, we clarify that projects must be designed to accelerate student achievement and the appropriate transition from restrictive settings to more inclusive settings or general education classes or programs, including strategies that improve student learning and developmental outcomes (i.e., academic, social, emotional, or behavioral). We also note that these projects may include appropriate strategies to prevent unnecessary suspensions and expulsions from these more inclusive settings, classes, or programs.

With regard to the commenters' recommendation to focus on collecting data on postsecondary and post-school employment outcomes, we agree that the data collection on, and understanding the indicators that predict success of, students with disabilities in their transition to postsecondary education is important. However, given that the i3 program focuses on K–12 education and that the Secretary may only award grants with project periods up to 60 months (see 34 CFR 75.250), we do not think it is reasonable to add a subpart that focuses only on post-secondary school employment data. As such, we have revised subpart (d), but we decline to propose a new subpart focused solely on employment data.

With regard to the commenters' recommendation that we add a subpart on school-wide initiatives that include multi-tiered systems of support, we agree it is important that the various systems of support for students with disabilities and their families are coordinated across all service providers, including schools, health care providers and social service agencies. That is why we included proposed subpart (a). However, we recognize that as proposed, subpart (a) focused only on technical assistance programs. Therefore, we have revised this subpart to provide for a broader focus that may include school-wide programs.

Changes: We have revised three subparts under this priority. Subpart (a) has been revised to support projects that implement coherent systems of support that appropriately coordinate and integrate programs to address the needs of children and youth with disabilities and improve the quality of for those children and their families.

Subpart (c) has been revised to support projects that design and implement strategies that improve student achievement for students with disabilities in inclusive settings, including accelerating student development and the transition from restrictive settings to inclusive settings, including general education classes or programs.

Subpart (d) has been revised to support projects that improve secondary and postsecondary data collection and tracking of academic and related outcomes for students with disabilities to understand their transition into postsecondary education and the factors associated with their success.

Comment: One commenter expressed support for this proposed priority and encouraged the Department to fund projects that would produce information about interventions that are successful in decreasing the achievement gap between students with disabilities and students without disabilities.

Discussion: All i3 grantees are required to participate in communities of practice and to produce evaluations about the implementation and efficacy of their projects. Therefore, we do not think it is necessary to create a separate requirement under this priority for projects to produce information about interventions that are successful in decreasing the achievement gap between students with disabilities and students without disabilities.

Changes: None.

Proposed Priority 5—Improving Academic Outcomes for English Learners (ELs)

Comment: One commenter stated that teachers of English for Speakers of Other Languages (ESOL) often do not have the necessary content knowledge to be the primary educators for ELs. For this reason, the commenter expressed concern that the proposed priority would not produce significant change because it focuses too much on improving ELs' vocabulary. According to the commenter, the priority would be improved if it included systematic reforms that ensure students who are ELs are not marginalized. The commenter recommended systemic

reforms that include, for example, specific supports and processes to improve ELs' transition between K–12 grades and from K–12 to postsecondary education.

Discussion: We recognize that systematic reforms are the most comprehensive approach to addressing ELs' learning needs. However, we also recognize that schools and LEAs may have different needs regarding how to best improve academic outcomes for ELs. That is why under this priority we include multiple subparts that address different types of interventions, ranging from systematic reform to specific gaps or challenges for addressing ELs' learning needs. For example, subpart (d) allows for a systematic approach because it focuses on projects that provide school-wide professional development for teachers, administrators, and other personnel in schools with a significant percentage of students who are ELs. Because a subpart under this priority does allow for projects that focus on systematic reform to improve student achievement for ELs and because we think it is important to also include subparts that focus on specific gaps, we conclude that is not appropriate for the Department to prescribe that applicants must only address ELs' needs through systematic reform.

Additionally, because one of the primary goals of the i3 program is to identify and document best practices, we think it is important to maintain subparts under this priority that would support projects that focus on specific challenges, needs, or gaps that affect all students, including students who are ELs.

Changes: None.

Comment: One commenter recommended that the priority include a subpart to develop and strengthen teacher preparation programs that provide substantial clinical experiences and develop curricula to prepare teachers of ELs. Specifically, the commenter stated that the way in which language is used for academic purposes within a given domain and the differences of individual ELs are important; and, as a result, more attention is needed to developing teachers who can meet the widely differing needs of ELs when the teachers enter the classroom.

Discussion: Although we agree that teachers entering the classroom should be prepared to meet the needs of all of their students, including ELs, we think the limited funds available for the i3 program should be focused on improving the skills of current EL educators rather than on improving teacher preparation programs' focus on ELs in particular. Therefore, we decline to make the changes recommended by this commenter.

Changes: None.

Comment: One commenter expressed support for this proposed priority, particularly subparts (c) and (d); and recommended revising subpart (d) to also focus on improving the capacity of schools and districts to increase the number of teachers trained to work with linguistically diverse students.

Discussion: We agree that it is important for schools and districts to consider ways to increase the number of current teachers trained to work with ELs. We believe that this is already reflected in the current priorities. For example, nothing prohibits an applicant from focusing on increasing the number of teachers trained to work with ELs under subparts (a) and (b) of priority 1 (Improving the Effectiveness of Teachers or Principals). Moreover, in order to avoid the marginalization of ELs, this priority incorporates school-level interventions that respond to student needs.

Changes: None.

Comment: In response to the Department's specific request for comment, three commenters recommended the Department allow applicants to propose projects that address instruction in English and a language other than English to meet subpart (c). One commenter stated that using a student's native language to learn a second language is consistent with practices in many States and districts that employ dual-language immersion and other bilingual methodologies. Thus, the commenter suggested that limiting subpart (c) to projects addressing instruction in English only may reduce the number of entities that could apply. Similarly, another commenter stated that the Department's rules should not limit school districts to a predetermined instructional methodology because this could limit the potential for learning about effective instructional strategies under the i3 program. One commenter urged the Department to encourage applicants to consider all products and processes available when addressing this proposed priority.

Discussion: The Department appreciates the commenters' responses to this request for comment. We conclude that we will continue to use the phrase, ''English or English and another language'' to ensure that we do not inadvertently limit the potential applicants under subpart (c) of this priority.

Changes: None.

Comment: One commenter expressed concern that the proposed priority reinforces false stereotypes by referring to limitations or impediments of ELs. To address this concern, the commenter provided revised text to focus on the range of academic language that all students must master to fully engage in their learning. The commenter also suggested clarifying that applicants applying under subpart (e) must focus on all students who enter school as ELs so that long-term outcomes of former ELs are considered.

Discussion: We agree with the commenter and have revised subpart (b) to clarify that projects funded under it need to provide sufficient exposure to, engagement in, and acquisition of academic language and literacy practices necessary for preparing ELs to be college and career ready. We also have revised subpart (e) as the commenter suggested.

Changes: We have revised subpart (b) to clarify the skills a project needs to address with regards to ELs' acquisition of academic language and literacy practices. We also have revised subpart (e) to clarify that teacher evaluation systems implemented under this priority define and measure the effectiveness of teachers of students who at some point have been identified as ELs (i.e., both current and former ELs).

Proposed Priority 6—Improving Parent and Family Engagement

Comment: One commenter expressed support for the proposed priority, and appreciated the focus on providing training to families to support their children's academic success, as well as professional development for administrators and teachers designed to improve relationships between parents and school staff.

Discussion: We appreciate the commenter's support for this priority. Subpart (a) addresses the need for building parents' and families' awareness of their role in improving their children's educational outcomes while subpart (b) focuses on projects designed to build relationships between parents and school staff. Together these subparts aim to increase family engagement to improve support for student and school achievement. In order to further clarify that improving students' academic outcomes is the ultimate goal of this priority, we have included specific academic outcomes under subpart (a).

Changes: We have revised subpart (a) to clarify that training for parents and families must provide the skills and strategies that will help parents and

families improve their children's academic outcomes, including increased engagement and persistence in school.

Comment: Three commenters recommended that the Department include, under subpart (a), training for parents and families of students with disabilities on ways to participate and make progress in a grade-level general education curriculum in the least restrictive environment.

Discussion: All i3 grantees must implement practices designed to improve academic outcomes for high-need students (as defined in this document). Therefore, projects addressing this priority must serve high-need students, which may include students with disabilities. Nothing in this priority precludes an applicant from proposing projects that focus on parents and families of students with disabilities, provided that the proposed project otherwise meets the requirements of the priority and therefore we are not changing the subpart language as requested.

Changes: None.

Comment: One commenter suggested revising subpart (d) to specify that the data and information collected on students' progress must include targeted ''parent-level'' metrics, such as math and verbal achievement, high school graduation rates, college enrollment rates, and number of credits accumulated.

Discussion: Although we appreciate the commenter's recommendation that the Department specify the data and information that projects under subpart (d) would need to collect, we do not want to narrow the projects that could be proposed or funded under this priority by prescribing a required list of metrics. Moreover, nothing in the statute or priorities would preclude an applicant from including ''parent-level'' metrics in addition to information about students' progress and performance.

However, we share the commenter's underlying concern that data about student performance should, among other things, be relevant and useful to parents. Access to data does not ensure its relevance or usefulness to parents. Thus, we have revised subpart (d) to clarify that the projects must improve both parents' access to and use of data about students' progress and performance, as opposed to only improving parents' access to data.

Changes: We have revised subpart (d) to clarify that projects addressing subpart (d) must develop tools or practices that provide students and parents with improved, ongoing access to, and use of, data and other information about students' progress and performance.

Comment: One commenter stated that the i3 program should make explicit allowance for the training and professional development of teachers, school leaders, and other school-based personnel regarding acquisition and maintenance of the specific knowledge, skills, and abilities required to effectively engage families and communities to improve student outcomes. To that end, the commenter provided specific revisions that require evidence-based initiatives and access to meaningful data to track students' progress. Additionally, the commenter proposed two new subparts under this priority: (1) Purposefully connecting the school with the family and community through a school-based facilitator, and (2) implementing initiatives that develop family and community leadership to sustain school improvements.

Discussion: We agree with the commenter about the importance of enhancing teachers' abilities to effectively engage families to improve student outcomes. That is why subpart (b) supports projects designed to enhance the skills and competencies of school staff to build relationships and collaborate with parents and families.

With regard to the commenter's proposal to require evidence-based initiatives and access to meaningful data to track students' progress, we note that this program requires projects to meet specific evidence standards. Similarly, all i3 grantees are required to conduct evaluations that estimate the impact of their projects on student outcomes. Therefore, we do not think it is necessary to specify evidence or data collection requirements under this priority.

We appreciate the commenter's recommendation that we add two new subparts. However, as subpart (c) does not preclude projects that would support connecting school-based facilitators with families and the community, or projects that would develop and implement initiatives that bolster family and community leadership for sustained school improvement, we do not think it is appropriate to add new subparts that could limit applicants' flexibility in designing their proposed projects. Additionally, although we recognize the importance of community engagement, we conclude that it is not necessary for the Department to revise this priority to address it because the Supplemental Priorities include a priority that does so and the i3 program could use that priority. See priority 5 of the Supplemental Priorities, Improving School Engagement, School Environment, and School Safety and Improving Family and Community Engagement.

Changes: None.

Comment: None.

Discussion: As part of our internal discussion of the comments about this priority, we noted that proposed subpart (b) refers to ''school and other administrative staff.'' In order to ensure applicants understand that we consider teachers to be school staff, we have revised subpart (b) to explicitly list teachers in addition to school and other administrative staff.

Changes: We have revised subpart (b) to clarify that, when addressing this subpart, applicants must implement initiatives that are designed to enhance the skills and competencies of teachers, and of school and other administrative staff in building relationships and collaborating with students' families, particularly those who have been underengaged with the school(s) in the past, in order to support student achievement and school improvement.

Proposed Priority 7—Improving Cost-Effectiveness and Productivity

Comment: One commenter expressed concern about the focus on cost-effectiveness because it may emphasize budgetary issues over educational ''ends.''

Discussion: We appreciate and recognize the commenter's concern; however, it is essential for schools and LEAs to closely examine their spending practices and reallocate resources to use them more efficiently and cost-effectively. The i3 program's focus on cost-effectiveness is consistent with the Department's broader initiative to encourage and support schools, LEAs, and States to ''do more with less'' through the adoption of promising practices and the responsible use of resources. We do not intend for this focus to overshadow the importance of the i3 program's requirement of implementing projects designed to improve student achievement. Additionally, we establish selection criteria that peer reviewers will use to consider the likelihood that a proposed project will achieve what it is designed to achieve and the extent to which a proposed project substantially improves outcomes. By using such criteria to evaluate applications, the Department encourages the adoption of cost-effective practices while also providing peer reviewers a mechanism to consider the cost and expected outcomes together.

Changes: None.

Comment: One commenter suggested revising this priority to specify the ways in which projects are to improve cost-effectiveness, including school-community partnerships.

Discussion: Under section 14007 of the ARRA, in order to be eligible for i3 grants, applicants must demonstrate that they have established partnerships with the private sector and that the private sector will provide matching funds to help bring results to scale. Moreover, we recognize that using external partnerships is one approach to improving cost-effectiveness. However, because nothing in the ARRA or this priority precludes an applicant from proposing projects that improve cost-effectiveness through such partnerships, we do not think it is appropriate to prescribe that applicants must use school-community partnerships to meet this priority.

Changes: None.

Proposed Priority 8—Effective Use of Technology

Comment: One commenter expressed strong support for this proposed priority, and recommended that applicants applying under any of the other proposed priorities also identify how technology would be used to advance the proposed projects. The commenter specifically cited proposed priorities 1 (Improving the Effectiveness of Teachers or Principals), 2 (Improving Low-Performing Schools), and 6 (Improving Parent and Family Engagement) as priorities under which applicants should be expected to address the use of technology in their applications and receive preference for doing so.

Discussion: While we encourage applicants to propose projects that use technology effectively, we do not think it is appropriate to require all applicants to design their projects around the use of technology. Nothing in any priority or the authorizing statute prohibits an applicant from proposing to use technology in a proposed project, provided that the use of technology is necessary for carrying out the proposed project and that the project otherwise meets the requirements of the priority.

Changes: None.

Comment: One commenter stated that the topics included in the subparts under this priority have been addressed and improved over time. The commenter further stated that adopting existing, effective uses of technology, such as online or blended learning, must be promoted.

Discussion: The i3 program aims to support expanding effective practices to serve more students across schools, districts, and States and to identify new solutions to pressing challenges. With that goal in mind, we designed this priority to support projects that focus on adopting or augmenting existing practices or developing new practices that use technology effectively to improve student achievement.

Changes: None.

Comment: Two commenters recommended that the Department add a new subpart under this priority for projects that integrate technology into expanded learning opportunities.

Discussion: Nothing in the authorizing statute or this priority precludes an applicant from proposing a project that integrates technology into expanded learning opportunities, provided that the project otherwise addresses the requirements of the priority. For example, applicants have discretion to propose such projects under subpart (e). We think that the applicants are best suited to determine how to integrate the effective use of technology into their proposed projects, and we do not think it is appropriate to create a subpart that focuses only on integrating technology to expand learning opportunities.

Changes: None.

Comment: One commenter agreed with the focus on using technology to improve instruction and increase access to high-quality learning opportunities. But the commenter also stated that the priority should be strengthened by encouraging applicants to approach technology acquisition and use in a manner that would provide teachers more time for individualized instruction and for establishing student-centered classrooms. The commenter also recommended that applicants addressing this priority should be expected to provide implementation strategies that would ensure that technology would be used to promote equity rather than exacerbate existing student achievement gaps. The commenter also stated that applicants should be required to ensure equitable access to the necessary technology so that no students are excluded due to a lack or shortage of the necessary technology.

Discussion: We agree with the commenter's recommendation that this priority support projects designed to use technology to provide students more time for individualized instruction. Therefore, we have modified subpart (a) to clarify that the learning experiences must be personalized and focus on students with a variety of learning needs.

We also agree that applicants proposing projects under this priority should consider how the proposed implementation strategies would ensure equitable access to the technology. Section 427 of the General Education Provisions Act (GEPA) addresses equitable access by requiring all applicants to provide a statement that identifies access barriers to participation in their projects and identifies solutions to overcome those barriers.

With regard to the commenter's concern about shortage of the necessary technology, we use selection criteria to consider the extent to which the applicant has planned for sufficient resources to carry out the project. For example, the selection criterion on the quality of the management plan includes a selection factor that considers the extent to which the applicant demonstrates it will have the resources to operate the project at the proposed level of scale during the grant period. This selection factor provides peer reviewers with a mechanism to consider whether an applicant has sufficient resources to carry out the project, which may include whether the applicant's plan ensures equitable access to the technology being implemented.

However an applicant chooses to ensure full and equitable access to the technology being used in the proposed project, we do not want projects funded under this priority to exacerbate inequities for students. Thus, we have revised subpart (b) to clarify that projects must provide students and teachers with equitable access to ''anytime, anywhere'' learning materials and experiences. We have also revised subpart (c) to include closing achievement gaps as a required outcome for projects addressing the subpart. Both of these revisions mitigate the risk that existing inequities or gaps would be compounded by projects addressing this priority.

Changes: We have revised subpart (b) to require applicants to propose projects that provide students and teachers with equitable ''anytime, anywhere'' access to learning materials and experiences. We have revised subpart (c) to require that projects must, in addition to improving student achievement (as defined in this document), also be designed to close achievement gaps.

Comment: Three commenters stated that technology is critically important to improving instruction for students with disabilities, and recommended that the Department revise subparts (c) and (f) to require that technology methods, resources, and integration be consistent with principles of UDL.

Discussion: We recognize and agree that technology is an effective tool for

improving instruction for students with disabilities. However, we do not think it is appropriate to prescribe a single approach or principle that all applicants must use when integrating technology into their projects. Additionally, nothing in the statute or the priority prohibits an applicant from using the approach or principle it determines to be most suitable for its project.

In order to comply with the requirements of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973, as amended, any technology used by recipients must be accessible to individuals with disabilities. For additional information about the application of these laws to technology, please refer to *www.ed.gov/ocr/letters/colleague-201105-ese.pdf and www.ed.gov/ocr/docs/dcl-ebook-faq-201105.pdf.* Provided the requirements of the civil rights laws and the priority are met, an applicant may propose a project under this priority that uses technology methods, resources, and integration that are consistent with the principles of UDL.

Changes: None.

Comment: One commenter urged the Department to include in the priority other educators who may not be teachers of record, such as media specialists or instructional aides, but who have instructional responsibilities in projects that are designed to use technology to improve instructional effectiveness.

Discussion: Nothing in the authorizing statute or this priority prohibits eligible applicants from including staff who are not teachers but have instructional responsibility in their projects. We decline to specifically reference these educators in the priority to ensure applicants have the maximum flexibility when developing their proposals.

Changes: None.

Comment: One commenter described this priority as ''strongly written and comprehensive.'' Although the commenter applauded the Department's commitment to encouraging adaptive learning experience and ''anytime, anywhere'' access to academic content and learning, the commenter suggested the Department clarify that technological tools are understood to be used for both instructional and assessment purposes.

Discussion: The Department agrees that ''anytime, anywhere'' access to academic content may include technological tools that are used for purposes of instruction, assessment, or both. Because we do not want to limit the types of content and learning that may be used in projects under subpart (b), we have revised this subpart to focus on access to learning materials and experiences instead of access to ''academic content.''

Changes: We have revised subpart (b) to focus on learning materials and experiences.

Comment: None.

Discussion: As part of our internal discussion of the comments about this priority, we noted that proposed subpart (f) did not include a reference to the intended outcomes for projects integrating technology with the implementation of college- and career-ready standards. In order for the use or integration of technology to be effective, we believe it is important that projects addressing this subpart focus on improving student and teacher outcomes. Thus, to correct this oversight, we have revised subpart (f) to include these outcomes, as we have done with other subparts, and to clarify that embedded, real-time assessments and feedback for students and teachers are examples of projects that could be proposed under this subpart.

Change: We have revised subpart (f) to clarify that projects integrating technology with the implementation of rigorous college- and career-ready standards must be designed to increase student achievement (as defined in this document), student engagement, and teacher efficacy, such as by providing embedded, real-time assessment and feedback to students and teachers.

Comment: None.

Discussion: As part of our internal discussion of the comments on this priority, we noted an oversight in how subpart (d) was phrased. Specifically, the subpart only referred to the outcome that would need to be achieved, but did not clarify that projects addressing it would need to implement strategies to achieved the stated outcomes. As all i3 grantees must implement the practices that serve students who are in grades K–12 at some point during the funding period, we have revised this subpart to clarify that the projects addressing it must implement strategies that improve student proficiencies.

Changes: We have revised subpart (d) in order to clarify our intent that applications addressing this subpart must implement strategies that improve student proficiencies in complex skills, such as critical thinking and collaboration across academic disciplines.

Proposed Priority 9—Formalizing and Codifying Effective Practices

Comment: A few commenters suggested clarifying that, under this proposed priority, an applicant must address the proposed practice's effectiveness for all learners and identify the practice's critical components for different teaching and learning environments as well as for diverse learners.

Discussion: A primary goal of this priority is to enable broad adoption of effective practices. We agree with the commenters that an applicant addressing this priority needs to evaluate different forms of a practice in order to determine whether the practice may be adapted for diverse learners. However, we recognize that some practices may be developed for, or targeted to, the needs of a specific student population and, by its very nature, may not be relevant or effective for students outside of that target group. For these reasons, we have revised the priority to clarify that applicants must address whether the proposed practice is effective for diverse learners; however, we decline to revise subpart (c) to require that applicants develop materials and tools on how to implement the practice effectively for all learners.

Changes: To clarify the goal of this priority, we have changed its title from ''Formalizing and Codifying Effective Practices'' to ''Enabling Broad Adoption of Effective Practices.'' Further, in response to comments, we have revised subpart (b) to clarify that applicants addressing this priority must identify the adaptability of the practice's critical components to diverse learners as well as to different teaching and learning environments.

Comment: One commenter expressed support for the Department's placing a high priority on sharing and disseminating effective practices under this proposed priority. However, the commenter encouraged the Department to only use this priority for the Validation and Scale-up competitions because projects under those categories are based on moderate and strong evidence of effectiveness.

Discussion: By establishing this priority, the Department may use it for any of the three types of grants under the i3 program (i.e., Development, Validation, and Scale-up). We agree with the commenter that this priority is most appropriate for i3 Scale-up and Validation grants because projects funded in those grant categories must be supported, respectively, by strong and moderate evidence of effectiveness. However, we decline to specify that the priority will be used only for a subset of i3 competition because we do not want to unnecessarily limit when this

priority can be used in future i3 competitions.

The Department will consider several factors, including the level of evidence or research available, when determining which of the priorities would be most appropriate for the different types of grants offered in any given year under the i3 program.

Changes: None.

Comment: One commenter urged the Department to allow current i3 grantees to apply to extend their grants under this priority, which would allow for additional years of implementation and data collection. The commenter explained that such an approach would allow third-party evaluators to collect the data necessary to demonstrate what educational elements are required to fundamentally change a student's academic trajectory. Without the option of extending current i3 grants, the commenter stated a concern that the opportunity to learn from these grants would be limited.

Discussion: We appreciate the commenter's concern. Although we agree with the commenter about the importance of maximizing the opportunity to learn from current i3 grantees, the Department's current regulations authorize the Secretary to approve a project period up to 60 months (see 34 CFR 75.250). We decline, however, to make the suggested change for two reasons. First, the Department has, under limited circumstances, allowed for a waiver of the 60-month project period. More importantly, the Department published a notice of proposed rulemaking on December 14, 2012 that proposed amending this regulation to address this specific situation. We have concluded that the proposed revisions to EDGAR are the appropriate place to address this issue.

Changes: None.

Proposed Priority 10—Serving Rural Communities

Comment: One commenter expressed support for the proposed priority because it is not limited to projects that improve high school graduation rates and college enrollment rates and, therefore, offers a broader focus than the previous rural priority used by the i3 program. However, another commenter expressed concern that urban education is not given a similar priority under the proposed priorities as rural education, and suggested the Department utilize a separate slate for rural applicants rather than establishing a separate rural priority.

Discussion: We aim to ensure that projects serving high-need students in diverse contexts, including urban, suburban, and rural communities, are eligible to compete for i3 funding. However, we acknowledge that rural communities face unique challenges (e.g., e more limited resources than urban and suburban communities to complete for Federal funds). We also recognize that the solutions to educational challenges may be different in rural areas than in urban and suburban communities and that there is a need for solutions that are unique to rural communities. For these reasons, we have established this priority to provide a mechanism for the Department to consider rural projects under a separate funding category, which is effectively the same as considering them as part of a separate slate, while also providing applicants proposing rural projects the ability to select among the same absolute priorities as other applicants. This approach does not advantage or disadvantage rural or non-rural applicants—it just ensures that both sets of applicants are competing against other applicants that face similar problems and challenges.

Changes: None.

Requirements

Comment: Several commenters proposed revisions to the types of entities that could apply for and receive a grant under the i3 program. Four commenters requested that the Department change the categories of eligible applicants for i3 grants to include nonprofit organizations applying on their own. The commenters stated that nonprofit organizations should have the ability to develop and implement i3 grants alone, as opposed to being eligible only in partnership with LEAs or schools. However, another commenter expressed concern that the i3 program has become a revenue source for nonprofit organizations, and recommended that the Department allow only LEAs to apply as the lead applicant and fiscal agent for i3 grants.

Two commenters recommended the Department change the eligible applicants for i3 grants to include (1) tribal educational agencies (TEAs), (2) a nonprofit organization in partnership with one or more TEAs, and (3) a nonprofit organization in partnership with one or more Bureau of Indian Education (BIE) schools. These commenters also stated that the Department should clarify that BIE schools meet the definition of ''LEA'' under the i3 program.

Discussion: Section 14007(a)(1) of the ARRA specifies the types of entities that are eligible to apply for funding under this program. They are:

(a) An LEA

(b) A partnership between a nonprofit organization and—

(1) One or more LEAs; or

(2) A consortium of schools.

The Department has no authority to revise or expand these statutorily prescribed eligibility requirements. However, we do want to clarify that, as public schools, BIE schools are eligible to be part of the consortium of schools in a partnership applying for an i3 grant. A BIE school may also be eligible to apply as an LEA on its own, or in partnership with a nonprofit organization as an LEA, because the definition of ''local educational agency'' in section 9101(26) of the ESEA includes a provision under which a BIE school may be considered an LEA. If a BIE school is an LEA, the BIE school would be able to apply as an eligible LEA on its own, or in partnership with a nonprofit organization as an LEA, consistent with the requirements for eligible applicants under section 14007(a)(1).

Changes: None.

Comment: Two commenters recommended the Department require any LEA located on Indian lands to consult with the appropriate tribes and provide them with adequate time to comment on the application prior to its submission. The commenters explained that an LEA's engagement with the tribe should include direct input regarding native student education, ongoing consultation and partnership, and the sharing of best practices. The commenters stated that any LEA that does not participate in this consultation should be ineligible to receive an i3 grant.

Discussion: We agree that any LEA located on tribal lands, or proposing to address native student education of a particular tribe or tribes, should coordinate with the appropriate tribe(s) when developing an application and implementing the project. Although under the i3 program such coordination is not required, we consider collaboration and coordination among project partners to be important to the success of any project. For that reason, we include a factor under the Quality of the Management Plan selection criterion that considers the extent to which the applicant demonstrates that it will have the resources to operate the project at the proposed level of scale both during the project period and beyond the length of the grant, including the demonstrated commitment of any partners and evidence of broad support from stakeholders critical to the

project's long-term success. Therefore, we do not feel it is necessary to make consultation an eligibility requirement.

Changes: None.

Comment: One commenter criticized the requirement that nonprofit organizations must identify partner districts or schools before an i3 grant is awarded because this undermines the development of effective partnerships. The commenter stated that it is critically important for nonprofit organizations proposing to conduct turnaround projects to ensure that the participating superintendents and principals are committed to the project, but the nonprofit organization is in a stronger position to select partners after receiving a grant, not before. The commenter proposed that the Department require applicants who are nonprofit organizations to specify the types of districts or schools that will participate in the project without identifying specific partners.

Discussion: As noted previously, section 14007(a)(1) of the ARRA specifies the entities eligible for funding under this program. Because the ARRA specifies that a nonprofit organization is only eligible to receive an i3 grant in partnership with one or more LEAs or a consortium of schools, we cannot award a nonprofit organization an i3 grant without any identified LEAs or schools.

Changes: None.

Comment: One commenter requested that the Department clarify that entities implementing programs that serve out-of-school youth, such as students beyond the compulsory school age or students participating in alternative education programs, are eligible to apply for i3 grants.

One commenter questioned the value of requiring that i3 projects to serve K–12 students and expressed concern that this requirement may result in applicants changing the focus on their planned interventions to serve a population for whom the intervention is not designed. The commenter further stated that this requirement conflicts with the requirement that i3 projects be supported by evidence of effectiveness, and distracts from the i3 program goal of learning what works in education.

Discussion: This requirement clarifies that the i3 program focuses on K–12 education. Although grantees are not prohibited from serving out-of-school youth or students who are beyond compulsory school age, all grantees must implement practices that serve students who are in grades K–12 at some point during the funding period.

We do not agree with the comment that this requirement conflicts with the required evidence standards or the program goal of learning what works in education. This requirement aims to ensure that all i3 grants support students in grades K–12, but it does not require applicants to propose projects that are not designed to serve students in the target population. As long as K–12 students are served by the grantee at some point during the funding period, it is within the applicant's discretion to determine what intervention will best address the competition's priority and meet the needs of the targeted student population.

Changes: None.

Comment: One commenter expressed support for the Department's proposal to strengthen the evidence standards required for eligibility; and two other commenters expressed concern regarding the proposed evidence standards themselves. One of these commenters questioned whether tying the evidence definitions to the What Works Clearinghouse (WWC) Evidence Standards was limiting because new innovations that show promise would not be able to move beyond the Development grant level. One commenter stated that the evidence definitions needed to be weakened to be more practical.

Discussion: A unique design feature of the i3 program is how it links funding to the quality and extent of existing evidence showing the likelihood of a proposed practice improving student outcomes. We recognize that the new definitions narrow the allowable evaluation methodologies at the strong and moderate evidence of effectiveness levels; but note that the new evidence standards also broaden the types of evidence that can be used at the Development level. Considering the level of public investment and the expectations that Scale-up and Validation projects serve students at a national or regional level, we believe it is reasonable to require such projects to have evidence of their effectiveness that uses evaluation methodologies that are most likely to support causal conclusions. Moreover, this evidence requirement provides incentives for entities to conduct rigorous, high-quality evaluations of existing widespread practices so that they can move beyond the Development grant level.

Changes: None.

Comment: Two commenters stated that the requirement that an eligible nonprofit organization must have a record of significantly improving student achievement, attainment, or retention is limiting because it seems to exclude nonprofit organizations that (1) demonstrate success in designing and implementing programs similar to those for which there is moderate evidence of success and (2) are implementing programs that reflect programs supported by evidence of promise or strong theory but for which no direct evaluation exists. Both commenters suggested that the Department allow nonprofit organizations to implement these programs.

Discussion: The comment references two different eligibility requirements: (1) Eligible applicants must have a record of significantly improving student achievement, attainment, or retention; and (2) the requirement that i3 grants be supported by evidence—Scale-up grants must be supported by strong evidence of effectiveness, Validation grants must be supported by moderate evidence of effectiveness, and Development grants must be supported by evidence of promise or strong theory. While we recognize these requirements appear similar, we think it is important to distinguish them in order to address the comments fully.

First, the requirement for applicants to have a record of significantly improving student achievement, attainment, or retention is statutory, and the Department has no authority to revise or remove it. Specifically, section 14007(b)(1) through (b)(3) and section 14007(c) of the ARRA require that, to be eligible for an i3 grant, an applicant have a record of improving student achievement.

Second, while the requirement that applicants have a record of significantly improving student achievement refers to the applicant's past work with LEAs and schools, the evidence standards refer to evidence that the proposed intervention is effective. That is, the applicant must provide information on its history of working to improve student outcomes, as well as the evidence of effectiveness of the proposed intervention. We consider both of these requirements important to the i3 program goal of identifying and supporting the replication of best practices in education.

Finally, while we have provided specific definitions for each level of evidence, we have not prescribed specific measures that must be used to meet the statutory eligibility requirement. We consider the applicant to be best suited to present information on how its past work has significantly improved student achievement and to determine the metrics it uses to measure those accomplishments. This approach provides an applicant with the discretion to demonstrate its record of improving student achievement but

maintains the program's structure of linking the amount of funding that an applicant may receive to the quality of the evidence supporting the efficacy of the proposed project. As noted earlier, this structure provides incentives for applicants to build evidence of effectiveness of their proposed projects.

Changes: None.

Comment: Two commenters proposed that the Department revise the statutory eligibility requirement to require an eligible applicant to have a record of significantly closing the achievement gaps between groups of students described in section 1111(b)(2) of the ESEA and students not in the subgroup (e.g., the gap between students with disabilities and students without disabilities).

Discussion: As explained previously, we have no authority to revise or expand the statutorily prescribed eligibility requirements; and, therefore, we cannot require applicants to have a record of significantly closing the achievement gaps between students in a particular subgroup and students not in that particular subgroup.

Changes: None.

Comment: One commenter expressed support for the Department's proposal to strengthen the evaluation requirement.

Discussion: We appreciate the support for requiring each i3 grantee to conduct an evaluation that will produce an estimate of the impact of the i3-supported practice (as implemented at the proposed level of scale) on a relevant outcome (as defined in this document). This requirement also aims to increase the evidence available on existing practices.

Changes: None.

Comment: One commenter expressed concern about the amount and timing of the matching requirement. The commenter stated that the requirement for matching funds conflicts with the Department's interest in identifying imaginative approaches to improving education.

Discussion: Section 14007(b)(3) of the ARRA specifically requires a private-sector match for grants awarded under this program. We understand the commenter's concern about the challenges of securing significant private-sector investments. This concern, however, is addressed by the flexibility provided in the ''Cost Sharing or Matching'' requirement, which allows the Secretary to determine the required amount of private-sector matching funds or in-kind contributions that eligible applicants must obtain under an i3 competition in a given year.

Moreover, the requirement now provides additional flexibility for the Secretary to announce in the notice inviting applications when and how selected eligible applicants must submit evidence of the private-sector matching funds. We expect the determination of the amount of the private-sector match, as well as the determination of when and how evidence of the private-sector match must be submitted, will be based on an assessment of the capacity and resources available in that particular year. In addition, an eligible applicant continues to have the option, under this requirement, to request in its application that the Secretary decrease the private-sector match amount that a particular applicant must provide.

Changes: None.

Comment: Three commenters recommended that the i3 program require that any learning materials, professional development, or tools created with i3 funding be made publicly available as open educational resources. The commenters specifically cited the Creative Commons Attribution license as an exemplar because, according to the commenter, it is both consistent with the Department of Labor's policy and clarifies how all users can access and use resources developed with Federal funds. One commenter stated that, although the Department's current regulations reserve the right to make content available for government purposes, a policy similar to the Creative Commons Attribution license would provide a more immediate indication of the return on investment in i3-funded projects.

Discussion: The Department's regulations on project materials and copyrightable intellectual property produced with grant funds apply to all grants awarded under this program. Specifically, under 34 CFR 75.621, grantees may copyright project materials produced with Department grant funds. However, 34 CFR 74.36 and 80.34 state that the Department retains a non-exclusive and irrevocable license to reproduce, publish, or otherwise use project materials developed with grant funds for government purposes. Together these regulations allow i3 grantees to copyright innovative project materials, thereby providing an incentive for the grantees to disseminate those materials through the commercial marketplace, while also recognizing that any such materials are the result of a public investment to promote learning, and can, if necessary, be made available to the public by the Department.

Further, one of the primary objectives of the i3 program is to identify and document best practices that can be shared and replicated. One way we do so is through the requirement that all i3 grantees participate in communities of practice. In addition, we establish priority 9 (Enabling Broad Adoption of Effective Practices) under which an applicant must share knowledge about the practice broadly and support the implementation of the practice in other settings and locations. We believe that the approach set out in the Department's current regulations properly balances the intellectual property interests of grantees and the public's interest in ensuring that copyrightable material produced with Department grant funds is widely disseminated. For these reasons, we decline to make the suggested change.

Changes: None.

Definitions

Comment: One commenter urged the Department to include definitions for ''community engagement'' and ''family engagement,'' and proposed definitions for the terms. The commenter's proposed definitions describe qualities of effective engagement and include explicit references to engagement being an ongoing or continuous process.

Discussion: We appreciate the commenter's recommendation. However, we also recognize that the range of projects aimed at improving parent and family engagement is vast, and that the meaning of ''parent and family engagement'' is evolving. To ensure that we do not limit or narrow the types of projects that could be submitted under this program, we decline to provide a specific definition. Moreover, because priority 6 (Improving Parent and Family Engagement) focuses on specific gaps or needs related to parent and family engagement, it does not seem necessary to further define these terms. Finally, because community engagement is not part of the priorities under this program, we conclude that it is not necessity to establish a definition.

Changes: None.

Comment: One commenter expressed concern that the current definition of ''high-need student'' encompasses any student who functions below grade-level. The commenter suggested the Department revise this definition to mean students with traditional achievement gaps, including low-income students, racial and ethnic minority students, ELs, or students with disabilities.

Discussion: The definition of ''high-need student'' could include students with traditional achievement gaps, including low-income students, racial and ethnic minority students, ELs, or students with disabilities. However, given the diversity of the projects that

could be funded under the i3 program, we think it is important that an applicant have the discretion to determine which students are at risk of educational failure, and to discuss how the proposed project will meet the needs of those students.

Changes: None.

Comment: Three commenters recommended that the Department revise the examples of supplemental measures provided in the definition of ''highly effective principal'' to include the percentage of students with disabilities educated in general classrooms.

Discussion: The supplemental measures listed in the definition of ''highly effective principal'' are examples and not exhaustive. Applicants have the discretion to consider other measures, including the percentage of students with disabilities in general education classrooms. Because of this, and because of the Department's interest in maintaining consistency in the definition of ''highly effective principal'' across various Department programs, we decline to revise the definition to include additional examples of supplemental measures.

Changes: None.

Comment: A few commenters proposed revisions to the definition of ''highly effective teacher.'' One commenter stated that the proposed definition narrowly conforms to the traditional role of a teacher lecturing a classroom and must be broadened to include all educators. As student learning occurs at individual rates, and because learning can happen any time and in any place, the commenter suggested that a teacher's effectiveness rating should be more flexible and allow for differentiated timetables for content mastery, consistent with the learning at any time, any place, and any pace. Another commenter stated that the proposed definition fails to reflect the new world of teaching because it does not recognize that multiple adults affect student learning in schools using a differential staffing model.

One commenter recommended the definition be revised to clarify that the measures of effectiveness for highly effective teachers be based on standards for teaching that relate to student learning. The commenter suggested that, in addition to student growth, standards created by the National Board for Professional Teaching Standards or the Interstate New Teacher Assessment and Support Consortium should be included as measures of teacher effectiveness.

Three commenters recommended that the Department revise the definition of ''highly effective teacher'' to incorporate additional supplemental measures that are specific to teachers of students with disabilities, including knowledge and implementation of the principles of UDL and assessments that measure effectiveness of addressing diverse learners' needs.

Discussion: We recognize that the classroom teacher is not the only individual to affect student achievement, and that learning may occur outside of the traditional classroom. However, as the definition of ''highly effective teacher'' refers to ''student growth,'' we conclude that the definition would not need to take into consideration differentiated timetables for content mastery because the definition for ''student growth'' does not prescribe the two or more points in time that needs to be used to measure a change in student achievement. Further, because multiple measures may be used to determine teacher effectiveness, we do not agree it is necessary to prescribe that applicants use a specific set of teaching standards.

The list of supplemental measures provided in the definition of ''highly effective teacher'' provides examples and is not exhaustive. Applicants have the discretion to consider other measures, including measures proposed by the commenters. Because the use of the proposed supplemental measures is possible under the current definition and because of the Department's interest in maintaining consistency in the definition of ''highly effective teachers'' across Department programs, we decline to revise the definition to include additional examples of supplemental measures.

Changes: None.

Comment: One commenter suggested that the Department broaden the types of assessments used in the definition of ''student achievement.'' The commenter stated that assessments specified in the definition should be as robust as the skills students are expected to demonstrate, including assessments that measure a student's ability to: master core content, think critically and solve complex problems, collaborate with peers, be self-directed, and integrate feedback.

Three commenters recommended that the Department revise the definitions of ''student achievement'' and ''student growth'' to include measures that are evidence-based and comparable across student groups.

Discussion: We agree that students need to be proficient in a robust set of skills. That is why the definition of ''student achievement'' includes, in addition to the assessments required under section 1111(b)(3) of the ESEA, other measures of student learning. Because other measures of student learning may be used under the current definition, and because of the Department's interest in maintaining consistency in the definitions of ''student achievement'' and ''student growth'' across Department programs, we decline to revise the definition.

Changes: None.

Comment: None.

Discussion: As part of our internal review, we noted that we inadvertently omitted the definition for ''nonprofit organization'' from the notice of proposed priorities, requirements, definitions, and selection. As we did not propose, or have any intention of making, a change to this definition, we have added the definition that we have used in prior i3 competitions.

Changes: We have defined *''nonprofit organization'' to mean* an entity that meets the definition of ''nonprofit'' under 34 CFR 77.1(c), or an institution of higher education as defined by section 101(a) of the Higher Education Act of 1965, as amended.

Comment: None.

Discussion: We have revised the definitions of ''moderate evidence of effectiveness'' and ''strong evidence of effectiveness'' by adding the phrase ''and overriding'' to the second parenthetical in sections (a) and (b) of both definitions. The purpose of our adding this phrase is to clarify the meaning of the parenthetical, which was intended to apply only to studies with unfavorable outcomes that were so substantial as to call into question the potential effectiveness of the intervention. The modification to the parenthetical makes clear the narrow scope of the parenthetical.

Changes: We have revised the second parenthetical in sections (a) and (b) of the definitions of ''moderate evidence of effectiveness'' and ''strong evidence of effectiveness'' to add the phrase ''and overriding.'' The parenthetical now reads ''with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse.''

Selection Criteria

The Department did not receive any comments on the proposed selection criteria. Therefore, we make no changes to the selection criteria.

FINAL PRIORITIES:

Priority 1—Improving the Effectiveness of Teachers or Principals.

Under this priority, we provide funding to projects that address one or more of the following priority areas:

(a) Developing and implementing new methods and sources for recruiting:

(1) Highly effective teachers (as defined in this document);

(2) Highly effective principals (as defined in this document); or

(3) Highly effective teachers and principals (as defined in this document).

(b) Developing and implementing models for teacher preparation that deepen pedagogical knowledge and skills which have been demonstrated to improve student achievement (as defined in this document), such as knowledge of instructional practices or knowledge and skills in classroom management, or that deepen pedagogical content knowledge.

(c) Developing and implementing models for principal preparation that deepen leadership skills which have been demonstrated to improve student achievement (as defined in this document).

(d) Developing and implementing models of induction and support for improving the knowledge and skills of novice teachers or novice principals to accelerate student performance, including but not limited to strategies designed to increase teacher retention or improve teacher or principal effectiveness.

(e) Creating career pathways with differentiated opportunities and roles for teachers or principals, which may include differentiated compensation.

(f) Designing and implementing teacher or principal evaluation systems that provide clear, timely, and useful feedback, including feedback that identifies areas for improvement and that guides professional development for teachers or principals.

(g) Developing supports for the ongoing development and performance improvement of teachers, principals, or instructional leaders, such as local and virtual communities, tools, training, and other mechanisms.

(h) Increasing the equitable access to effective teachers or principals for low-income and high-need students (as defined in this document), which may include increasing the equitable distribution of effective teachers or principals for low-income and high-need students across schools.

(i) Extending highly effective teachers' reach to serve more students, including strategies such as new course designs, staffing models, technology platforms, or new opportunities for collaboration that allow highly effective teachers to reach more students, or approaches or tools that reduce administrative and other burden while maintaining or improving effectiveness.

(j) Projects addressing pressing needs related to improving teacher or principal effectiveness.

Priority 2—Improving Low-Performing Schools.

Under this priority, we provide funding to projects that address one or more of the following priority areas:

(a) Designing whole-school models and implementing processes that lead to significant and sustained improvement in individual student performance and overall school performance and culture. These models may incorporate such strategies as providing strong school leadership; strengthening the instructional program; embedding professional development that provides teachers with frequent feedback to increase the rigor and effectiveness of their instructional practice; redesigning the school day, week, or year; using data to inform instruction and improvement; establishing a school environment that promotes a culture of high expectations; addressing non-academic factors that affect student achievement; and providing ongoing mechanisms for parent and family engagement.

(b) Changing elements of the school's organizational design to improve instruction by differentiating staff roles and extending and enhancing instructional time.

(c) Recruiting, developing, or retaining highly effective staff, specifically teachers, principals, or instructional leaders, to work in low-performing schools.

(d) Implementing programs, supports, or other strategies that improve students' non-cognitive abilities (e.g., motivation, persistence, or resilience) and enhance student engagement in learning or mitigate the effects of poverty, including physical, mental, or emotional health issues, on student engagement in learning.

(e) Supporting the turnaround efforts of low-performing schools or districts by increasing access to, and use of, high-quality partners.

(f) Increasing district- or State-level capacity to turn around low-performing schools, including improvements to State and district support and oversight of turnaround efforts.

(g) Projects that support the implementation of turnaround efforts in secondary schools.

(h) Projects addressing pressing needs related to improving low-performing schools.

Other requirements related to Priority 2:

To meet this priority, a project must serve schools among (1) the lowest-performing schools in the State on academic performance measures; (2) schools in the State with the largest within-school performance gaps between student subgroups described in section 1111(b)(2) of the ESEA; or (3) secondary schools in the State with the lowest graduation rate over a number of years or the largest within-school gaps in graduation rates between student subgroups described in section 1111(b)(2) of the ESEA. Additionally, projects funded under this priority must complement the broader turnaround efforts of the school(s), LEA(s), or State(s) where the projects will be implemented.

Priority 3—Improving Science, Technology, Engineering, and Mathematics (STEM) Education.

Under this priority, we provide funding to projects that address one or more of the following priority areas:

(a) Providing students with increased access to rigorous and engaging coursework in STEM.

(b) Redesigning STEM course content and instructional practices to engage students and increase student achievement (as defined in this document).

(c) Developing and implementing new methods and resources for recruiting individuals with content expertise in STEM subject areas into teaching.

(d) Increasing the high-quality preparation of, or professional development for, teachers or other educators in STEM subjects, through activities that include building content and pedagogical content knowledge.

(e) Expanding high-quality out-of-school and extended-day activities, including extending the day, week, or year, or before- or after- school, or summer learning programs, that provide students with opportunities for deliberate practice that increase STEM learning, engagement, and expertise.

(f) Increasing the number of individuals from groups traditionally underrepresented in STEM, including minorities, individuals with disabilities, and women and girls, who access rigorous and engaging coursework in STEM and are prepared for postsecondary study in STEM.

(g) Increasing the number of individuals from groups traditionally underrepresented in STEM, including minorities, individuals with disabilities, and women, who are teachers or educators of STEM subjects and receive high-quality preparation or professional development.

(h) Projects addressing pressing needs for improving STEM education.

Priority 4—Improving Academic Outcomes for Students with Disabilities.

Under this priority, we provide funding to projects that address one or more of the following priority areas:

(a) Implementing coherent systems of support that appropriately coordinate and integrate programs to address the needs of children and youth with disabilities and improve the quality of service for those children and their families.

(b) Designing and implementing teacher evaluation systems that define and measure effectiveness of special education teachers and related service providers.

(c) Designing and implementing strategies that improve student achievement (as defined in this document) for students with disabilities in inclusive settings, including strategies that improve learning and developmental outcomes (i.e., academic, social, emotional, or behavioral) and the appropriate transition from restrictive settings to inclusive settings or general education classes or programs, and appropriate strategies to prevent unnecessary suspensions and expulsions.

(d) Improving secondary and postsecondary data collection and tracking of academic and related outcomes for students with disabilities to understand their transition into postsecondary education and the factors associated with their success.

(e) Projects addressing pressing needs related to improving academic outcomes for students with disabilities.

Priority 5—Improving Academic Outcomes for English Learners (ELs).

Under this priority, we provide funding to projects that address one or more of the following priority areas:

(a) Increasing the number and proportion of ELs successfully completing courses in core academic subjects by developing, implementing, and evaluating new instructional approaches and tools that are sensitive to the language demands necessary to access challenging content, including technology-based tools.

(b) Aligning and implementing the curriculum and instruction used in grades 6–12 for language development and content courses to provide sufficient exposure to, engagement in, and acquisition of academic language and literacy practices necessary for preparing ELs to be college- and career-ready.

(c) Preparing ELs to be on track to be college- and career-ready when they graduate from high school by developing comprehensive, developmentally appropriate, early learning programs (birth-grade 3) that are aligned with the State's high-quality early learning standards, designed to improve readiness for kindergarten, and support development of literacy and academic skills in English or in English and another language.

(d) Developing and implementing school-wide professional development for teachers, administrators, and other personnel in schools in which a significant percentage of students are ELs.

(e) Designing and implementing teacher evaluation systems that define and measure the effectiveness of teachers of students who at some point have been identified as ELs (i.e., both current and former ELs).

(f) Projects addressing pressing needs related to improving academic outcomes for ELs.

Priority 6—Improving Parent and Family Engagement.

Under this priority, we provide funding to projects that address one or more of the following priority areas:

(a) Developing and implementing initiatives that train parents and families in the skills and strategies that will support their students in improving academic outcomes, including increased engagement and persistence in school.

(b) Implementing initiatives that are designed to enhance the skills and competencies of teachers, and of school and other administrative staff, in building relationships and collaborating with students' families, particularly those who have been underengaged with the school(s) in the past, in order to support student achievement and school improvement.

(c) Implementing initiatives that cultivate sustainable partnerships and increase connections between parents and school staff in order to support student achievement and school improvement.

(d) Developing tools or practices that provide students and parents with improved, ongoing access to, and use of, data and other information about students' progress and performance.

(e) Projects addressing pressing needs related to improving student outcomes by improving parent and family engagement.

Priority 7—Improving Cost-Effectiveness and Productivity.

Under this priority, we provide funding to projects that address one of the following areas:

(a) Substantially improving student outcomes without commensurately increasing per-student costs.

(b) Maintaining student outcomes while substantially decreasing per-student costs.

(c) Substantially improving student outcomes while substantially decreasing per-student costs.

Other requirements related to Priority 7:

An application addressing this priority must provide—

(1) A clear and coherent budget that identifies expected student outcomes before and after the practice, the cost per student for the practice, and a clear calculation of the cost per student served;

(2) A compelling discussion of the expected cost-effectiveness of the practice compared with alternative practices;

(3) A clear delineation of one-time costs versus ongoing costs and a plan for sustaining the project, particularly ongoing costs, after the expiration of i3 funding;

(4) Identification of specific activities designed to increase substantially the cost-effectiveness of the practice, such as re-designing costly components of the practice (while maintaining efficacy) or testing multiple versions of the practice in order to identify the most cost-effective approach; and

(5) A project evaluation that addresses the cost-effectiveness of the proposed practice.

Priority 8—Effective Use of Technology.

Under this priority, we will provide funding to projects that use technology to address one or more of the following priority areas:

(a) Providing access to learning experiences that are personalized, adaptive, and self-improving in order to optimize the delivery of instruction to learners with a variety of learning needs.

(b) Providing students and teachers with equitable ''anytime, anywhere'' access to learning materials and experiences that they otherwise would not have access to, such as rigorous coursework that is not offered in a particular school, or effective professional development activities or learning communities enabled by technology.

(c) Developing new methods and resources for teacher preparation or professional development that increase teachers' abilities to utilize technology to enhance their knowledge and skills to improve student achievement (as defined in this document) and to close achievement gaps.

(d) Implementing strategies that improve student proficiencies in complex skills, such as critical thinking and collaboration across academic disciplines.

(e) Developing and implementing technology-enabled strategies for teaching and learning concepts and content (e.g., systems thinking) that are difficult to teach using traditional approaches, such as models and simulations, collaborative virtual environments, or ''serious games''.

(f) Integrating technology with the implementation of rigorous college- and career-ready standards to increase student achievement (as defined in this document), student engagement, and teacher efficacy, such as by providing embedded, real-time assessment and feedback to students and teachers.

(g) Projects that increase the use of technology for effective teaching and learning.

Priority 9—Enabling Broad Adoption of Effective Practices.

Under this priority, we provide funding to projects that enable broad adoption of effective practices. An application proposing to address this priority must, as part of its application:

(a) Identify the practice or practices that the application proposes to prepare for broad adoption, including formalizing the practice (i.e., establish and define key elements of the practice), codifying (i.e., develop a guide or tools to support the dissemination of information on key elements of the practice), and explaining why there is a need for formalization and codification.

(b) Evaluate different forms of the practice to identify the critical components of the practice that are crucial to its success and sustainability, including the adaptability of critical components to different teaching and learning environments and to diverse learners.

(c) Provide a coherent and comprehensive plan for developing materials, training, toolkits, or other supports that other entities would need in order to implement the practice effectively and with fidelity.

(d) Commit to assessing the replicability and adaptability of the practice by supporting the implementation of the practice in a variety of locations during the project period using the materials, training, toolkits, or other supports that were developed for the i3-supported practice.

Priority 10—Serving Rural Communities.

Under this priority, we provide funding to projects that address one of the absolute priorities established for a particular i3 competition and under which the majority of students to be served are enrolled in rural local educational agencies (as defined in this document).

Priority 11—Supporting Novice i3 Applicants.

Eligible applicants that have never directly received a grant under this program.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Requirements:

1. *Innovations that Improve Achievement for High-Need Students:* All grantees must implement practices that are designed to improve student achievement (as defined in this document) or student growth (as defined in this document), close achievement gaps, decrease dropout rates, increase high school graduation rates (as defined in this document), or increase college enrollment and completion rates for high-need students (as defined in this document).

2. *Innovations that Serve Kindergarten-through-Grade-12 (K–12) Students:* All grantees must implement practices that serve students who are in grades K–12 at some point during the funding period. To meet this requirement, projects that serve early learners (i.e., infants, toddlers, or preschoolers) must provide services or supports that extend into kindergarten or later years, and projects that serve postsecondary students must provide services or supports during the secondary grades or earlier.

3. *Eligible Applicants:* Entities eligible to apply for i3 grants include either of the following:

(a) An LEA.

(b) A partnership between a nonprofit organization and—

(1) One or more LEAs; or

(2) A consortium of schools.

Statutory Eligibility Requirements: Except as specifically set forth in the *Note about Eligibility for an Eligible Applicant that Includes a Nonprofit Organization* that follows, to be eligible for an award, an eligible applicant must—

(a)(1) Have significantly closed the achievement gaps between groups of students described in section 1111(b)(2) of the ESEA (economically disadvantaged students, students from major racial and ethnic groups, students with limited English proficiency, students with disabilities); or

(2) Have demonstrated success in significantly increasing student academic achievement for all groups of students described in that section;

(b) Have made significant improvements in other areas, such as high school graduation rates (as defined in this document) or increased recruitment and placement of high-quality teachers and principals, as demonstrated with meaningful data;

(c) Demonstrate that it has established one or more partnerships with the private sector, which may include philanthropic organizations, and that organizations in the private sector will provide matching funds in order to help bring results to scale; and

(d) In the case of an eligible applicant that includes a nonprofit organization, provide in the application the names of the LEAs with which the nonprofit organization will partner, or the names of the schools in the consortium with which it will partner. If an eligible applicant that includes a nonprofit organization intends to partner with additional LEAs or schools that are not named in the application, it must describe in the application the demographic and other characteristics of these LEAs and schools and the process it will use to select them.

Note about LEA Eligibility: For purposes of this program, an LEA is an LEA located within one of the 50 States, the District of Columbia, or the Commonwealth of Puerto Rico.

Note about Eligibility for an Eligible Applicant that Includes a Nonprofit Organization: The authorizing statute specifies that an eligible applicant that includes a nonprofit organization meets the requirements in paragraphs (a) and (b) of the eligibility requirements for this program if the nonprofit organization has a record of significantly improving student achievement, attainment, or retention. For an eligible applicant that includes a nonprofit organization, the nonprofit organization must demonstrate that it

has a record of significantly improving student achievement, attainment, or retention through its record of work with an LEA or schools. Therefore, an eligible applicant that includes a nonprofit organization does not necessarily need to include as a partner for its i3 grant an LEA or a consortium of schools that meets the requirements in paragraphs (a) and (b) of the eligibility requirements in this document.

In addition, the authorizing statute specifies that an eligible applicant that includes a nonprofit organization meets the requirements of paragraph (c) of the eligibility requirements in this document if the eligible applicant demonstrates that it will meet the requirement for private-sector matching.

4. *Cost-Sharing or Matching Funds:* To be eligible for an award, an applicant must demonstrate that one or more private sector organizations, which may include philanthropic organizations, will provide matching funds in order to help bring project results to scale. An eligible applicant must obtain matching funds or in-kind donations equal to an amount that the Secretary will specify in the notice inviting applications for the specific i3 competition. The Secretary will announce in the notice inviting applications when and how selected eligible applicants must submit evidence of the private-sector matching funds.

The Secretary may consider decreasing the matching requirement in the most exceptional circumstances. The Secretary will provide instructions for how to request a reduction of the matching requirement in the notice inviting applications.

5. *Evidence Standards:* To be eligible for an award, an application for a Development grant must be supported by one of the following:

(a) Evidence of promise (as defined in this document);

(b) Strong theory (as defined in this document); or

(c) Evidence of promise (as defined in this document) or strong theory (as defined in this document).

The Secretary will announce in the notice inviting applications which options will be used as the evidence standard for a Development grant in a given competition. Note that under (c), applicants must identify whether the application is supported by evidence of promise (as defined in this document) or strong theory (as defined in this document).

To be eligible for an award, an application for a Validation grant must be supported by moderate evidence of effectiveness (as defined in this document).

To be eligible for an award, an application for a Scale-up grant must be supported by strong evidence of effectiveness (as defined in this document).

6. *Funding Categories:* An applicant will be considered for an award only for the type of i3 grant (i.e., Development, Validation, and Scale-up) for which it applies. An applicant may not submit an application for the same proposed project under more than one type of grant.

7. *Limit on Grant Awards:* (a) No grantee may receive more than two new grant awards of any type under the i3 program in a single year; (b) In any two-year period, no grantee may receive more than one new Scale-up or Validation grant; and (c) No grantee may receive in a single year new i3 grant awards that total an amount greater than the sum of the maximum amount of funds for a Scale-up grant and the maximum amount of funds for a Development grant for that year. For example, in a year when the maximum award value for a Scale-up grant is $25 million and the maximum award value for a Development grant is $5 million, no grantee may receive in a single year new grants totaling more than $30 million.

8. *Subgrants:* In the case of an eligible applicant that is a partnership between a nonprofit organization and (1) one or more LEAs or (2) a consortium of schools, the partner serving as the applicant and, if funded, as the grantee, may make subgrants to one or more entities in the partnership.

9. *Evaluation:* The grantee must conduct an independent evaluation (as defined in this document) of its project. This evaluation must estimate the impact of the i3-supported practice (as implemented at the proposed level of scale) on a relevant outcome (as defined in this document). The grantee must make broadly available digitally and free of charge, through formal (e.g., peer-reviewed journals) or informal (e.g., newsletters) mechanisms, the results of any evaluations it conducts of its funded activities. For Scale-up and Validation grants, the grantee must also ensure that the data from its evaluation are made available to third-party researchers consistent with applicable privacy requirements.

In addition, the grantee and its independent evaluator must agree to cooperate with any technical assistance provided by the Department or its contractor and comply with the requirements of any evaluation of the program conducted by the Department. This includes providing to the Department, within 100 days of a grant award, an updated comprehensive evaluation plan in a format and using such tools as the Department may require. Grantees must update this evaluation plan at least annually to reflect any changes to the evaluation. All of these updates must be consistent with the scope and objectives of the approved application.

10. *Communities of Practice:* Grantees must participate in, organize, or facilitate, as appropriate, communities of practice for the i3 program. A community of practice is a group of grantees that agrees to interact regularly to solve a persistent problem or improve practice in an area that is important to them.

11. *Management Plan:* Within 100 days of a grant award, the grantee must provide an updated comprehensive management plan for the approved project in a format and using such tools as the Department may require. This management plan must include detailed information about implementation of the first year of the grant, including key milestones, staffing details, and other information that the Department may require. It must also include a complete list of performance metrics, including baseline measures and annual targets. The grantee must update this management plan at least annually to reflect implementation of subsequent years of the project.

Final Definitions:

The Assistant Deputy Secretary establishes the following definitions for this program. We may apply one or more of these definitions in any year in which this program is in effect.

Consortium of schools means two or more public elementary or secondary schools acting collaboratively for the purpose of applying for and implementing an i3 grant jointly with an eligible nonprofit organization.

Evidence of promise means there is empirical evidence to support the theoretical linkage between at least one critical component and at least one relevant outcome presented in the logic model (as defined in this document) for the proposed process, product, strategy, or practice. Specifically, evidence of promise means the following conditions are met:

(a) There is at least one study that is either a—

(1) Correlational study with statistical controls for selection bias;

(2) Quasi-experimental study (as defined in this document) that meets the

What Works Clearinghouse Evidence Standards with reservations [1]; or

(3) Randomized controlled trial (as defined in this document) that meets the What Works Clearinghouse Evidence Standards with or without reservations; [2] and

(b) Such a study found a statistically significant or substantively important (defined as a difference of 0.25 standard deviations or larger), favorable association between at least one critical component and one relevant outcome presented in the logic model for the proposed process, product, strategy, or practice.

High-need student means a student at risk of educational failure or otherwise in need of special assistance and support, such as students who are living in poverty, who attend high-minority schools (as defined in this document), who are far below grade level, who have left school before receiving a regular high school diploma, who are at risk of not graduating with a diploma on time, who are homeless, who are in foster care, who have been incarcerated, who have disabilities, or who are English learners.

High-minority school is defined by a school's LEA in a manner consistent with the corresponding State's Teacher Equity Plan, as required by section 1111(b)(8)(C) of the ESEA. The applicant must provide, in its i3 application, the definition(s) used.

High school graduation rate means a four-year adjusted cohort graduation rate consistent with 34 CFR 200.19(b)(1) and may also include an extended-year adjusted cohort graduation rate consistent with 34 CFR 200.19(b)(1)(v) if the State in which the proposed project is implemented has been approved by the Secretary to use such a rate under Title I of the ESEA.

Highly effective principal means a principal whose students, overall and for each subgroup as described in section 1111(b)(3)(C)(xiii) of the ESEA (economically disadvantaged students, students from major racial and ethnic groups, migrant students, students with disabilities, students with limited English proficiency, and students of each gender), achieve high rates (e.g., one and one-half grade levels in an academic year) of student growth. Eligible applicants may include multiple measures, provided that principal effectiveness is evaluated, in significant part, based on student growth. Supplemental measures may include, for example, high school graduation rates; college enrollment rates; evidence of providing supportive teaching and learning conditions, support for ensuring effective instruction across subject areas for a well-rounded education, strong instructional leadership, and positive family and community engagement; or evidence of attracting, developing, and retaining high numbers of effective teachers.

Highly effective teacher means a teacher whose students achieve high rates (e.g., one and one-half grade levels in an academic year) of student growth. Eligible applicants may include multiple measures, provided that teacher effectiveness is evaluated, in significant part, based on student academic growth. Supplemental measures may include, for example, multiple observation-based assessments of teacher performance or evidence of leadership roles (which may include mentoring or leading professional learning communities) that increase the effectiveness of other teachers in the school or LEA.

Independent evaluation means that the evaluation is designed and carried out independent of, but in coordination with, any employees of the entities who develop a process, product, strategy, or practice and are implementing it.

Innovation means a process, product, strategy, or practice that improves (or is expected to improve) significantly upon the outcomes reached with status quo options and that can ultimately reach widespread effective usage.

Large sample means a sample of 350 or more students (or other single analysis units) who were randomly assigned to a treatment or control group, or 50 or more groups (such as classrooms or schools) that contain 10 or more students (or other single analysis units) and that were randomly assigned to a treatment or control group.

Logic model (also referred to as theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (i.e., the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally.

Moderate evidence of effectiveness means one of the following conditions is met:

(a) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that: meets the What Works Clearinghouse Evidence Standards without reservations; [3] found a statistically significant favorable impact on a relevant outcome (as defined in this document) (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse); and includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice.

(b) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that: meets the What Works Clearinghouse Evidence Standards with reservations; [4] found a statistically significant favorable impact on a relevant outcome (as defined in this document) (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse); includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice; and includes a large sample (as defined in this document) and a multi-site sample (as defined in this document). (Note: multiple studies can cumulatively meet the large and multi-site sample requirements as long as each study meets the other requirements in this paragraph).

Multi-site sample means more than one site, where site can be defined as an LEA, locality, or State.

National level describes the level of scope or effectiveness of a process, product, strategy, or practice that is able to be effective in a wide variety of communities, including rural and urban areas, as well as with different groups (e.g., economically disadvantaged, racial and ethnic groups, migrant populations, individuals with disabilities, English learners, and individuals of each gender).

Nonprofit organization means an entity that meets the definition of

[1] *See* What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

[2] *See* What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

[3] *See* What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

[4] *See* What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

''nonprofit'' under 34 CFR 77.1 (c), or an institution of higher education as defined by section 101 (a) of the Higher Education Act of 1965, as amended.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental design by identifying a comparison group that is similar to the treatment group in important respects. These studies, depending on design and implementation, can meet What Works Clearinghouse Evidence Standards with reservations [5] (they cannot meet What Works Clearinghouse Evidence Standards without reservations).

Randomized controlled trial means a study that employs random assignment of, for example, students, teachers, classrooms, schools, or districts to receive the intervention being evaluated (the treatment group) or not to receive the intervention (the control group). The estimated effectiveness of the intervention is the difference between the average outcome for the treatment group and for the control group. These studies, depending on design and implementation, can meet What Works Clearinghouse Evidence Standards without reservations.[6]

Regional level describes the level of scope or effectiveness of a process, product, strategy, or practice that is able to serve a variety of communities within a State or multiple States, including rural and urban areas, as well as with different groups (e.g., economically disadvantaged, racial and ethnic groups, migrant populations, individuals with disabilities, English learners, and individuals of each gender). For an LEA-based project to be considered a regional-level project, a process, product, strategy, or practice must serve students in more than one LEA, unless the process, product, strategy, or practice is implemented in a State in which the State educational agency is the sole educational agency for all schools.

Relevant outcome means the student outcome or outcomes (or the ultimate outcome if not related to students) that the proposed project is designed to improve, consistent with the specific goals of the project and the i3 program.

Rural local educational agency means a local educational agency (LEA) that is eligible under the Small Rural School Achievement (SRSA) program or the Rural and Low-Income School (RLIS) program authorized under Title VI, Part B of the ESEA. Eligible applicants may determine whether a particular LEA is eligible for these programs by referring to information on the Department's Web site at *www2.ed.gov/nclb/freedom/local/reap.html.*

Strong evidence of effectiveness means that one of the following conditions is met:

(a) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that: meets the What Works Clearinghouse Evidence Standards without reservations; [7] found a statistically significant favorable impact on a relevant outcome (as defined in this document) (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse); includes a sample that overlaps with the populations and settings proposed to receive the process, product, strategy, or practice; and includes a large sample (as defined in this document) and a multi-site sample (as defined in this document). (Note: multiple studies can cumulatively meet the large and multi-site sample requirements as long as each study meets the other requirements in this paragraph).

(b) There are at least two studies of the effectiveness of the process, product, strategy, or practice being proposed, each of which: meets the What Works Clearinghouse Evidence Standards with reservations; [8] found a statistically significant favorable impact on a relevant outcome (as defined in this document) (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the studies or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse); includes a sample that overlaps with the populations and settings proposed to receive the process, product, strategy, or practice; and includes a large sample (as defined in this document) and a multi-site sample (as defined in this document).

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model (as defined in this document).

Student achievement means—

(a) For grades and subjects in which assessments are required under ESEA section 1111(b)(3): (1) a student's score on such assessments and may include (2) other measures of student learning, such as those described in paragraph (b), provided they are rigorous and comparable across schools within an LEA.

(b) For grades and subjects in which assessments are not required under ESEA section 1111(b)(3): alternative measures of student learning and performance such as student results on pre-tests, end-of-course tests, and objective performance-based assessments; student learning objectives; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across schools within an LEA.

Student growth means the change in student achievement (as defined in this document) for an individual student between two or more points in time. An applicant may also include other measures that are rigorous and comparable across classrooms.

Final Selection Criteria:

The Secretary establishes the following selection criteria for evaluating an application under this program. We may apply one or more of these criteria in any year in which this program is in effect. We propose that the Secretary may use:

- One or more of the selection criteria established in the notice of final priorities, requirements, definitions, and selection criteria;
- Any of the selection criteria in 34 CFR 75.210; criteria based on the statutory requirements for the i3 program in accordance with 34 CFR 75.209; or
- Any combination of these when establishing selection criteria for each particular type of grant (Development, Validation, and Scale-up) in any i3 competition. We propose that the Secretary may further define each criterion by selecting specific factors for it. The Secretary may select these factors from any selection criterion in the list above. In the notice inviting applications, the application package, or both we will announce the specific selection criteria that apply to a competition and the maximum possible points assigned to each criterion.

(a) *Significance.*

In determining the significance of the proposed project, the Secretary will

[5] *See* What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

[6] *See* What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

[7] *See* What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

[8] *See* What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

consider one or more of the following factors:

(1) The extent to which the proposed project addresses a national need.

(2) The extent to which the proposed project addresses a challenge for which there is a national need for solutions that are better than the solutions currently available.

(3) The extent to which the proposed project would implement a novel approach as compared with what has been previously attempted nationally.

(4) The extent of the expected impact of the project on relevant outcomes (as defined in this document), including the estimated impact of the project on student outcomes (particularly those related to student achievement (as defined in this document)) and the breadth of the project's impact, compared with alternative practices or methods of addressing similar needs.

(5) The extent to which the proposed project demonstrates that it is likely to have a meaningful impact on relevant outcomes (as defined in this document), particularly those related to student achievement (as defined in this document), if it were implemented and evaluated in a variety of settings.

(6) The extent to which the proposed project will substantially improve on the outcomes achieved by other practices, such as through better student outcomes, lower cost, or accelerated results.

(7) The importance and magnitude of the proposed project's expected impact on a relevant outcome (as defined in this document), particularly one related to student achievement (as defined in this document).

(8) The likelihood that the project will have the estimated impact, including the extent to which the applicant demonstrates that unmet demand for the proposed project or the proposed services will enable the applicant to reach the proposed level of scale.

(9) The feasibility of national expansion if favorable outcomes are achieved.

(b) *Quality of the Project Design.*

In determining the quality of the project design, the Secretary will consider one or more of the following factors:

(1) The extent to which the proposed project addresses the national need and priorities the applicant is seeking to meet.

(2) The extent to which the proposed project addresses the absolute priority the applicant is seeking to meet.

(3) The clarity and coherence of the project goals, including the extent to which the proposed project articulates an explicit plan or actions to achieve its goals (e.g., a fully developed logic model of the proposed project).

(4) The extent to which the proposed project has a clear set of goals and an explicit plan or actions to achieve the goals, including identification of any elements of the project logic model that require further testing or development.

(5) The extent to which the proposed project will produce a fully codified practice, including a fully articulated logic model of the project by the end of the project period.

(6) The clarity, completeness, and coherence of the project goals and whether the application includes a description of project activities that constitute a complete plan for achieving those goals, including the identification of potential risks to project success and strategies to mitigate those risks.

(7) The extent to which the applicant addresses potential risks to project success and strategies to mitigate those risks.

(8) The extent to which the applicant will use grant funds to address a particular barrier or barriers that prevented the applicant, in the past, from reaching the level of scale proposed in the application.

(9) The extent to which the project would build the capacity of the applicant to scale up and sustain the project or would create an organization capable of expanding if successful outcomes are achieved.

(10) The sufficiency of the resources to support effective project implementation, including the project's plan for ensuring funding after the period of the Federal grant.

(11) The sufficiency of the resources to support effective project implementation.

(c) *Quality of the Management Plan.*

In determining the quality of the management plan, the Secretary will consider one or more of the following factors:

(1) The extent to which the management plan articulates key responsibilities and well-defined objectives, including the timelines and milestones for completion of major project activities, the metrics that will be used to assess progress on an ongoing basis, and annual performance targets the applicant will use to monitor whether the project is achieving its goals.

(2) The clarity and coherence of the applicant's multi-year financial and operating model and accompanying plan to operate the project at a national level (as defined in this document) during the project period.

(3) The clarity and coherence of the applicant's multi-year financial and operating model and accompanying plan to operate the project at a national or regional level (as defined in this document) during the project period.

(4) The extent to which the applicant demonstrates that it will have the resources to operate the project at the proposed level of scale during the project period and beyond the length of the grant, including the demonstrated commitment of any partners and evidence of broad support from stakeholders critical to the project's long-term success (e.g., State educational agencies, teachers' unions).

(5) The extent of the demonstrated commitment of any key partners or evidence of broad support from stakeholders whose participation is critical to the project's long-term success.

(d) *Personnel.*

When evaluating the personnel of the proposed project, the Secretary will consider one or more of the following factors:

(1) The adequacy of the project's staffing plan, particularly for the first year of the project, including the identification of the project director and, in the case of projects with unfilled key personnel positions at the beginning of the project, that the staffing plan identifies how critical work will proceed.

(2) The qualifications and experience of the project director and other key project personnel and the extent to which they have the expertise to accomplish the proposed tasks.

(3) The extent to which the project director has experience managing large, complex, and rapidly growing projects.

(4) The extent to which the project director has experience managing large, complex projects.

(5) The extent to which the project director has experience managing projects of similar size and scope as the proposed project.

(e) *Quality of the Project Evaluation.*

In determining the quality of the project evaluation, the Secretary will consider one or more of the following factors:

(1) The clarity and importance of the key questions to be addressed by the project evaluation, and the appropriateness of the methods for how each question will be addressed.

(2) The extent to which the methods of evaluation will, if well implemented, produce evidence about the project's effectiveness that would meet the What Works Clearinghouse Evidence Standards without reservations.[9]

[9] *See* What Works Clearinghouse Procedures and Standards Handbook. (Version 2.1, September

(3) The extent to which the methods of evaluation will, if well implemented, produce evidence about the project's effectiveness that would meet the What Works Clearinghouse Evidence Standards with or without reservations.[10]

(4) The extent to which the methods of evaluation will provide valid and reliable performance data on relevant outcomes, particularly student achievement outcomes.

(5) The extent to which the evaluation will study the project at the proposed level of scale, including, where appropriate, generating information about potential differential effectiveness of the project in diverse settings and for diverse student population groups.

(6) The extent to which the evaluation will study the project at the proposed level of scale, including in diverse settings.

(7) The extent to which the evaluation plan includes a clear and credible analysis plan, including a proposed sample size and minimum detectable effect size that aligns with the expected project impact, and an analytic approach for addressing the research questions.

(8) The extent to which the evaluation plan includes a clear, well-documented, and rigorous method for measuring implementation of the critical features of the project, as well as the intended outcomes.

(9) The extent to which the evaluation plan clearly articulates the key components and outcomes of the project, as well as a measurable threshold for acceptable implementation.

(10) The extent to which the evaluation plan will provide sufficient information on the project's effect as compared to alternative practices addressing similar need.

(11) The extent to which the proposed project plan includes sufficient resources to carry out the project evaluation effectively.

This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This document does *not* solicit applications. In any year in which we choose to use one or more of these priorities, requirements, definitions, and selection criteria], we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action will have an annual effect on the economy of more than $100 million because Department anticipates more than that amount will be appropriated for i3 and awarded as grants. Therefore, this final action is ''economically significant'' and subject to review by OMB under section 3(f)(1) of Executive Order 12866. Notwithstanding this determination, we have assessed the potential costs and benefits, both quantitative and qualitative, of this final regulatory action and have determined that the benefits justify the costs.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these final priorities, requirements, definitions, and selection criteria only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this final regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In this regulatory impact analysis we discuss the need for regulatory action, the potential costs and benefits, net budget impacts, assumptions, limitations, and data sources, as well as regulatory alternatives we considered.

Discussion of Costs and Benefits

The Secretary believes that these priorities, requirements, definitions, and selection criteria would not impose significant costs on eligible LEAs, nonprofit organizations, or other entities that would receive assistance through the i3 program. The Secretary also believes that the benefits of implementing the priorities, requirements, definitions, and selection criteria contained in this document outweigh any associated costs.

2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19*.

[10] *See* What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19*.

The Secretary expects that these priorities, requirements, definitions, and selection criteria will result in selection of high-quality applications to implement activities that are most likely to have a significant national impact on educational reform and improvement. Additionally, the priorities, requirements, definitions, and selection criteria in this document clarify the scope of activities the Secretary expects to support with program funds and the expected burden of work involved in preparing an application and implementing a project under the program. Potential applicants, both LEAs and nonprofit organizations, need to consider carefully the effort that will be required to prepare a strong application, their capacity to implement a project successfully, and their chances of submitting a successful application.

Program participation is voluntary. The Secretary believes that the costs imposed on applicants by these priorities, requirements, definitions, and selection criteria would be limited to paperwork burden related to preparing an application and that the benefits of implementing them would outweigh any costs incurred by applicants. The costs of carrying out activities would be paid for with program funds and with matching funds provided by private-sector partners. Thus, the costs of implementation would not be a burden for any eligible applicants, including small entities.

Regulatory Alternatives Considered

The Department considered using the priorities, requirements, definitions, and selection criteria established for and used during prior i3 competitions instead of establishing these final priorities, requirements, definitions, and selection criteria. However, although we maintain the overall purpose and structure of the i3 program, we incorporate changes based on specific lessons learned from the first three competitions. For example, the original i3 priorities were written broadly and generated a wide range of projects in the first three competitions. With this regulatory action, we establish final priorities that provide for a more focused set of projects within areas of acute need. Similarly, the final requirement on cost-sharing and marching provides more flexibility for when and how selected eligible applicants must submit evidence of the private-sector matching funds. We also use this regulatory action to provide clarification on the expectations for the three types of grants under the i3 program (i.e., Development, Validation, and Scale-up) by making changes to the descriptions of the types of grants and the selection criteria.

The priorities, requirements, definitions, and selection criteria in this document reflect and promote the purpose of the i3 program. They also align the i3 program, where possible and permissible, with other Departmental priorities.

Accounting Statement

As required by OMB Circular A–4 (available at *www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a004/a-4.pdf*), in the following table we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this regulatory action. This table provides our best estimate of the changes in annual monetized transfers as a result of this regulatory action. Expenditures are classified as transfers from Federal Government to LEAs and nonprofit organizations.

ACCOUNTING STATEMENT CLASSIFICATION OF ESTIMATED EXPENDITURES

Category	Transfers
Annualized Monetized Transfers	$140,011,000
From Whom To Whom?	from the Federal Government to LEAs and nonprofit organizations

Waiver of Delayed Effective Date Under Congressional Review Act

These priorities, requirements, definitions, and selection criteria are a major rule for purposes of the Congressional Review Act (CRA) (5 U.S.C. 801, et seq.). Generally, under the CRA, a major rule takes effect 60 days after the date on which the rule is published in the **Federal Register**. Section 808(2) of the CRA, however, provides that any rule which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the Federal agency promulgating the rule determines.

These final priorities, requirements, definitions, and selection criteria are needed to implement the i3 program, authorized under the American Recovery and Reinvestment Act of 2009, Division A, Section 14007, Public Law 111–5. The Department must make grant awards under this authority by December 31, 2013, or the funds will lapse.

Even under an expedited timeline, it is impracticable for the Department to adhere to a 60-day delayed effective date for this final regulatory action and make awards to qualified applicants by the December deadline. When the 60-day delayed effective date is added to the time the Department will need to receive pre-applications (approximately 30 days), review the pre-applications and invite full applications (approximately 60 days), receive full applications (approximately 45 days), review applications (approximately 35 days), approve applications (approximately 50 days), and, finally, provide time for grantees to secure the required private-sector matching funds (approximately 30 days), the Department will not be able to award funds by December 31, 2013. The Department has therefore determined that, under section 808(2) of the CRA, the 60-day delay in the effective date generally required for congressional review is impracticable, contrary to the public interest, and waived for good cause.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the

official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: March 21, 2013.

James H. Shelton, III,

Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. 2013–07016 Filed 3–26–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Investing in Innovation Fund, Development Grants

AGENCY: Office of Innovation and Improvement, Department of Education.

ACTION: Notice.

Overview Information

Investing in Innovation Fund, Development grants Notice inviting applications for new awards for fiscal year (FY) 2013.

Catalog of Federal Domestic Assistance (CFDA) Numbers:

84.411P (Development grants Pre-Application).

84.411C (Development grants Full Application).

Note: In order to receive an Investing in Innovation Fund (i3) Development grant, an entity must submit a pre-application. The pre-application is intended to reduce the burden of submitting a full i3 application. Pre-applications will be reviewed and scored by peer reviewers using the selection criteria designated in this notice. Entities that submit a highly rated pre-application will be invited to submit a full i3 application; other pre-applicants may choose to do so.

DATES: *Pre-Applications Available:* March 29, 2013.

Deadline for Notice of Intent to Submit Pre-Application: April 16, 2013.

Deadline for Transmittal of Pre-Applications: April 26, 2013.

Full Applications Available: If you are invited to submit a full application, we will transmit the full application package and instructions using the contact information you provide to us. Other pre-applicants who choose to submit a full application may request the full application package and instructions from the Department.

Deadline for Transmittal of Full Applications: Entities that submit a highly rated pre-application as scored by peer reviewers and as identified by the Department will be invited to submit a full i3 application. Other pre-applicants may choose to submit a full application. The Department will announce on its Web site the deadline date for transmission of full applications and will also communicate this deadline to applicants in the full application package and instructions.

Deadline for Intergovernmental Review: 60 calendar days after the deadline date for transmittal of full applications.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Investing in Innovation Fund (i3), established under section 14007 of the American Recovery and Reinvestment Act of 2009 (ARRA), provides funding to support (1) local educational agencies (LEAs), and (2) nonprofit organizations in partnership with (a) one or more LEAs or (b) a consortium of schools. The i3 program is designed to generate and validate solutions to persistent educational challenges and to support the expansion of effective solutions across the country to serve substantially larger numbers of students. The central design element of the i3 program is its multi-tier structure that links the amount of funding that an applicant may receive to the quality of the evidence supporting the efficacy of the proposed project. Applicants proposing practices supported by limited evidence can receive relatively small grants that support the development and initial evaluation of promising practices and help to identify new solutions to pressing challenges; applicants proposing practices supported by evidence from rigorous evaluations, such as large randomized controlled trials, can receive sizable grants to support expansion across the Nation. This structure provides incentives for applicants to build evidence of effectiveness of their proposed projects and to address the barriers to serving more students across schools, districts, and States so that applicants can compete for more sizeable grants.

As importantly, all i3 projects are required to generate additional evidence of effectiveness. All i3 grantees must use part of their budgets to conduct independent evaluations (as defined in this notice) of their projects. This ensures that projects funded under the i3 program contribute significantly to improving the information available to practitioners and policymakers about which practices work, for which types of students, and in what contexts.

The Department awards three types of grants under this program: ''Development'' grants, ''Validation'' grants, and ''Scale-up'' grants. These grants differ in terms of the level of prior evidence of effectiveness required for consideration of funding, the level of scale the funded project should reach, and consequently the amount of funding available to support the project.

Development grants provide funding to support the development or testing of practices that are supported by evidence of promise (as defined in this notice) or strong theory (as defined in this notice) and whose efficacy should be systematically studied. Development grants will support new or substantially more effective practices for addressing widely shared challenges. Development projects are novel and significant nationally, not projects that simply implement existing practices in additional locations or support needs that are primarily local in nature. All Development grantees must evaluate the effectiveness of the project at the level of scale proposed in the application.

This notice invites applications for Development grants only. The Department anticipates publishing notices inviting applications for the other types of i3 grants (Validation and Scale-up grants) in the spring of 2013.

We remind LEAs of the continuing applicability of the provisions of the Individuals with Disabilities Education Act (IDEA) for students who may be served under i3 grants. Any grants in which LEAs participate must be consistent with the rights, protections, and processes established under IDEA for students who are receiving special education and related services or are in the process of being evaluated to determine their eligibility for such services.

As described later in this notice, in connection with making competitive grant awards, an applicant is required, as a condition of receiving assistance under this program, to make civil rights assurances, including an assurance that its program or activity will comply with Section 504 of the Rehabilitation Act of 1973 and the Department's section 504 implementing regulations, which prohibit discrimination on the basis of disability. Regardless of whether a student with disabilities is specifically targeted as a ''high-need student'' (as defined in this notice) in a particular grant application, recipients are required to comply with all legal nondiscrimination requirements, including, but not limited to the obligation to ensure that students with disabilities are not denied access to the benefits of the recipient's program because of their disability. The Department also enforces Title II of the Americans with Disabilities Act (ADA), as well as the regulations implementing Title II of the ADA, which prohibit discrimination on the basis of disability by public entities.

Furthermore, Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin. On December 2, 2011, the Departments of Education and Justice jointly issued guidance that explains how educational institutions can promote student diversity or avoid racial isolation within the framework of Title VI (e.g., through consideration of the racial demographics of neighborhoods when drawing assignment zones for schools or through

targeted recruiting efforts). The ''Guidance on the Voluntary Use of Race to Achieve Diversity and Avoid Racial Isolation in Elementary and Secondary Schools'' is available on the Department's Web site at *www.ed.gov/ocr/docs/guidance-ese-201111.pdf.*

Background: The FY 2013 i3 Development competition incorporates lessons learned from prior i3 competitions. As such, it includes several changes from prior i3 competitions that prospective applicants should note. These changes reflect the recently revised i3 program design, as described in the final priorities, requirements, definitions, and selection criteria for this program (2013 i3 NFP), published elsewhere in this issue of the **Federal Register**.

In the 2013 i3 NFP, the Department redesigned key aspects of the i3 program to improve the FY 2013 and future i3 competitions by accelerating the identification of promising solutions to pressing challenges in K–12 public education, supporting the evaluation of the efficacy of such solutions, and developing new approaches to scaling effective practices to serve more students.

One example of the various changes we established in the 2013 i3 NFP pertains to the breadth and specificity of the potential priorities for a given i3 competition. Specifically, the 2013 i3 NFP includes 11 priorities representing a range of education topics that the Secretary may select from when establishing the priorities for an i3 competition for a given year. Although the Department has used broad priorities in the past, the 2013 i3 NFP includes subparts under each priority that target specific needs. These subparts facilitate the i3 program's goal of building a portfolio of solutions and corresponding evidence regarding different approaches to addressing critical challenges in public education. When selecting the priorities for a given competition, the Department considers several factors, including the Department's policy priorities, the need for new solutions in a particular priority area, other available funding for a particular priority area, and the results and lessons learned from prior i3 competitions.

We include eight absolute priorities in the FY 2013 Development competition. Under each, we identify subparts to which applicants must select from in order to meet the absolute priority.

First, we include the priority on improving the effectiveness of teachers or principals, because these activities are integral to the Department's mission. To support the Department's broader equity agenda, we include a subpart under this priority that encourages applicants to implement models designed to increase the equitable access to effective teachers or principals for low-income and high-need students. We also include a subpart that encourages applicants to implement projects that extend highly effective teachers' reach to allow effective teachers to serve more students. Both subparts provide the opportunity for applicants to change operating conditions within schools and districts in ways that are consistent with the Department's policy goals for professionalizing teaching and improving outcomes for high-need students. Both subparts also provide the opportunity to contribute to i3's aim of supporting increased efficiencies at the school and district levels.

Second, we include a priority addressing the pressing need for activities that accelerate the improved performance of low-performing schools to ensure that all students receive a quality K–12 education. Under this priority, we include a subpart to support projects that recruit, develop, or retain highly effective staff, specifically teachers, principals, or instructional leaders, to work in low-performing schools. We include this subpart because building the pool of talented educators—both teachers and principals—who are well prepared for, and committed to, school turnaround efforts complements other school turnaround efforts of the Department. We believe that having more educators who are well prepared for, and committed to, school turnaround efforts could significantly accelerate the Nation's overall efforts to transform low-performing schools. We also include a subpart for the implementation of programs, supports, or other strategies that improve students' non-cognitive abilities (e.g., motivation, persistence, or resilience) and enhance student engagement in learning. An emerging body of research suggests that non-cognitive abilities and engagement can bolster efforts to improve academic outcomes, particularly for high-need students. Although both of these subparts address challenges encountered by many schools, we consider them particularly acute in low-performing schools.

Third, we include a priority on science, technology, engineering, and mathematics (STEM) education. Ensuring that all students can access coursework and can excel in STEM fields is essential to our Nation's economy and future prosperity. Under this priority, we include one subpart that focuses on redesigning STEM course content and instructional practices to engage students and increase student achievement. To date, the STEM projects funded by the i3 program have not focused on redesigning STEM course content. We consider STEM course redesign, particularly at the secondary level, to be a key policy priority that may significantly improve STEM outcomes.

Fourth, we include a priority on improving academic outcomes for students with disabilities. Specifically, we include a subpart that addresses the growing need for designing and implementing teacher evaluation systems that both define and measure the effectiveness of teachers of students with disabilities and related service providers. Given that many States are in the process of implementing their own statewide teacher evaluation systems, we are concerned that there are limited ways to effectively, reliably, and meaningfully integrate teachers of students with disabilities and related service providers into evaluation systems. We also include a subpart for applicants to design and implement strategies that improve student achievement for students with disabilities in inclusive settings or general education programs. To date, the i3 program has not funded projects in this area. We believe it is essential to develop and promote effective approaches for ensuring that students with disabilities are provided opportunities to participate and progress in inclusive and general education settings. In particular, recent data on the prevalence of exclusionary school discipline policies suggests that new models supporting students' transition to inclusive settings are needed. While the negative effects of exclusionary school discipline policies are not confined to students with disabilities, this program is particularly focused on the potential effect on these students.

Fifth, we include a priority on improving academic outcomes for English learners (ELs). School districts across the country are experiencing increases in the enrollment of students who cannot speak, read, or write English well enough to participate meaningfully in educational programs and who therefore need specialized support services. Too often, these students' English language needs are not met, thereby inhibiting them from the achieving the academic outcomes of which they are capable. This issue is particularly acute for ELs at the middle- and high-school levels. To address this concern, we include a subpart that

focuses on projects that align the curriculum and instruction to be used in grades 6–12 that are necessary for preparing ELs to be college-and career-ready.

Sixth, we include a priority on improving parent and family engagement. Parents and families are instrumental to their children's academic success, but the Department has few programs that provide direct funding for projects that enable parents and families to take on an active role in improving their children's academic performance. Under this priority, we include a subpart for projects that provide parents and families the skills and strategies that increase student engagement and improve student outcomes. This subpart is consistent with the Department's new parent engagement framework.[1] We also include a second subpart for projects that provide students and parents with improved and ongoing access to data about students' progress and performance. As schools enhance their ability to collect and analyze student-level data to inform student- and school-level decisions, sharing these types of data can be a powerful way to involve parents in their children's academic success. The Department expects that projects funded under this subpart will produce new approaches for sharing this type of information with parents and families in ways that meaningfully engage them in the school's mission and their children's success.

Seventh, we include a priority on the effective use of technology. The Department's *National Education Technology Plan 2010*[2] highlighted the potential of ''connected teaching'' that makes it possible to extend the reach of the most effective teachers by using online tools. The *National Education Technology Plan 2010* also highlighted the need for high-quality learning resources that can reach learners wherever and whenever they are needed. To support these efforts, we include two subparts under this priority that focus on projects that improve the access to and use of learning experiences that are personalized and self-improving, and on projects that develop and implement technology-enabled strategies for teaching and learning concepts that are difficult to teach using traditional approaches. For both of these subparts, we are particularly interested in supporting projects that use technology to meet students' diverse learning needs.

Finally, we include a priority that focuses on serving rural communities. Prior i3 competitions, as well as other Department programs, have demonstrated that rural areas confront a plethora of challenges as they work to provide a high-quality education for all students. Under this year's competition, applicants applying under this priority must address one of the other seven absolute priorities for the FY 2013 i3 Development competition, as described above, while serving students enrolled in rural LEAs. In addition to the changes to the priorities, the 2013 i3 NFP also modifies aspects of the i3 program's requirements, definitions, and selection criteria. In general, these changes improve clarity and strengthen the requirements and design aspects of the i3 program. Most notably, we have clarified that all i3 grantees must implement practices that serve students who are in grades K–12 at some point during the funding period. Further, we have revised the evidence standards and definitions so that applicants can better understand what is required to meet each level of evidence. For the FY 2013 Development competition, applicants must identify the evidence standard under which they are submitting their applications (i.e., evidence of promise or strong theory). Applicants should review the requirements section of this notice for instructions on how to identify the evidence standard under which they are submitting their applications, as well as for information on the other eligibility and program requirements.

The i3 program includes a statutory requirement for a private-sector match for all i3 grantees. Based on feedback from previous i3 applicants, we are modifying the process for applicants to secure, and demonstrate evidence of, the required private-sector match for the FY 2013 i3 competition. While an applicant must secure 15 percent of its Federal grant award to be eligible for an i3 Development grant, the timeframe in which an applicant must secure and submit evidence of the required private-sector matching funds has been expanded. In the past, the highest-rated applicants had only approximately 30 days to secure 100 percent of their required matches and become grantees, which proved difficult for both applicants and potential private-sector funders. While all of the past highest-rated i3 applicants successfully secured their private-sector matches, the Department is eager to improve the matching process to facilitate deeper public-private partnerships. Therefore, for the FY 2013 i3 competition, each highest-rated applicant, as identified by the Department following peer review of full applications, must submit evidence of 50 percent of the required private-sector match prior to the awarding of an i3 grant. An applicant must provide evidence of the remaining 50 percent of the required private-sector match no later than six months after the project start date (i.e., 6 months after January 1, 2014, or by July 1, 2014). The grant will be terminated if the grantee does not secure its private-sector match by the established deadline. By decreasing the amount of the required match that must be secured before the i3 award can be made, the burden for both applicants and private-sector funders will be reduced, which in turn will foster improved collaboration.

This notice also includes selection criteria that are designed to ensure that applications selected for funding have the potential to generate substantial improvements in student achievement (and other key outcomes), and include well-articulated plans for the implementation and evaluation of the proposed projects. This notice includes selection criteria for both pre-applications and full applications for the FY 2013 Development competition. Applicants should review the selection criteria and submission instructions carefully to ensure their applications reflect this year's criteria.

The FY 2012 i3 Development competition was the first i3 competition that utilized a pre-application process, which was designed to decrease the burden on applicants and improve the responsiveness of the Department. Based on positive feedback from applicants and peer reviewers, and internal Department analyses, we believe that a pre-application process will again benefit applicants by requiring them to expend fewer resources in preparing their initial applications. We also believe the continued use of the pre-application process will be helpful for applicants whose proposals are judged to be less competitive, while also providing additional time for applicants that are judged to be more competitive to improve their full proposals based on peer review comments on their pre-applications. In addition, the simplified pre-application process may be particularly meaningful for applicants from LEAs or other organizations without dedicated or contract grant writers or similar resources. For all of these reasons, the Department will use a pre-application process again this year.

[1] *www.ed.gov/blog/wp-content/uploads/2012/12/Family_Engagement_DRAFT_Framework.pdf.*

[2] *www.ed.gov/technology/netp-2010.*

The pre-application and full application review processes will follow a similar review process as the 2012 i3 competition. Peer reviewers will read and score the shorter pre-application against an abbreviated set of selection criteria, and the applications rated highly in this process will be invited to submit full applications. However, this year, we have also decided to allow pre-applicants who are not specifically invited to submit a full application to choose whether to submit a full application.

An entity that submits a full application for a Development grant must include the following information in its full application: An estimate of the number of students to be served by the project; evidence of the applicant's ability to implement and appropriately evaluate the proposed project; and information about its capacity (e.g., qualified personnel, financial resources, and management capacity) to further develop and bring the project to a larger scale directly or through partners, either during or following the grant period, if positive results are obtained. We recognize that LEAs are not typically responsible for taking their practices, strategies, or programs to scale; however, all applicants can and should partner with others to disseminate and take their effective practices, strategies, and programs to scale.

The Department will screen pre- and full applications submitted for Development grants in accordance with the requirements in this notice, and will determine which applications have met the eligibility and other requirements in the 2013 i3 NFP. Peer reviewers will review all pre- and full applications for Development grants that are submitted by the established deadlines.

Applicants should note, however, that we may screen for eligibility at multiple points during the competition process, including before and after peer review; applicants that are determined ineligible will not receive a grant regardless of peer reviewer scores or comments. If we determine that a project proposed in a full Development grant application is not supported by evidence of promise or strong theory, does not demonstrate the required prior record of improvement, or does not meet any other eligibility requirement, the application will not be considered for funding.

Priorities: This competition includes eight absolute priorities. These priorities are from the 2013 i3 NFP.

Absolute Priorities: For FY 2013 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3) we consider only applications that meet one of these priorities.

Under this competition for Development grants, each of the eight absolute priorities constitutes its own funding category. The Secretary intends to award grants under each absolute priority for which applications of sufficient quality are submitted.

An applicant for a Development grant must choose one of the eight absolute priorities and one of the subparts under the chosen priority to address in its pre-application, and full application, if the applicant is invited to, or chooses to, submit a full application. Both pre-applications and full applications will be peer reviewed and scored; scores will be rank ordered by absolute priority, so it is essential that an applicant clearly identify the specific absolute priority and subpart that the proposed project addresses. It is also important to note that applicants who choose to submit an application under the absolute priority for Serving Rural Communities must identify an additional absolute priority and subpart. Regardless, the peer-reviewed scores for applications submitted under the Serving Rural Communities priority will be ranked with other applications under this priority, and not included in the ranking for the additional priority that they identified. This design helps us ensure that applicants under the Serving Rural Communities priority receive an ''apples to apples'' comparison with other rural applicants.

The absolute priorities are:

Absolute Priority 1—Improving the Effectiveness of Teachers or Principals

Projects addressing one of the following priority areas:

(a) Increasing the equitable access to effective teachers or principals for low-income and high-need students (as defined in this notice), which may include increasing the equitable distribution of effective teachers or principals for low-income and high-need students across schools.

(b) Extending highly effective teachers' reach to serve more students, including strategies such as new course designs, staffing models, technology platforms, or new opportunities for collaboration that allow highly effective teachers to reach more students, or approaches or tools that reduce administrative and other burden while maintaining or improving effectiveness.

Absolute Priority 2—Improving Low-Performing Schools

Projects addressing one of the following priority areas:

(a) Recruiting, developing, or retaining highly effective staff, specifically teachers, principals, or instructional leaders, to work in low-performing schools.

(b) Implementing programs, supports, or other strategies that improve students' non-cognitive abilities (e.g., motivation, persistence, or resilience) and enhance student engagement in learning or mitigate the effects of poverty, including physical, mental, or emotional health issues, on student engagement in learning.

Other Requirements Related to Priority 2

To meet this priority, a project must serve schools among (1) the lowest-performing schools in the State on academic performance measures; (2) schools in the State with the largest within-school performance gaps between student subgroups described in section 1111(b)(2) of the ESEA; or (3) secondary schools in the State with the lowest graduation rate over a number of years or the largest within-school gaps in graduation rates between student subgroups described in section 1111(b)(2) of the ESEA. Additionally, projects funded under this priority must complement the broader turnaround efforts of the school(s), LEA(s), or State(s) where the projects will be implemented.

Absolute Priority 3—Improving Science, Technology, Engineering, and Mathematics (STEM) Education

Projects addressing the following priority area:

(a) Redesigning STEM course content and instructional practices to engage students and increase student achievement (as defined in this notice).

Absolute Priority 4—Improving Academic Outcomes for Students With Disabilities

Projects addressing one of the following priority areas:

(a) Designing and implementing teacher evaluation systems that define and measure effectiveness of special education teachers and related service providers.

(b) Designing and implementing strategies that improve student achievement (as defined in this notice) for students with disabilities in inclusive settings, including strategies that improve learning and developmental outcomes (i.e., academic, social, emotional, or behavioral) and the appropriate transition from restrictive settings to inclusive settings or general education classes or programs, and appropriate strategies to prevent

unnecessary suspensions and expulsions.

Absolute Priority 5—Improving Academic Outcomes for English Learners (ELs)

Projects addressing the following priority area:

(a) Aligning and implementing the curriculum and instruction used in grades 6–12 for language development and content courses to provide sufficient exposure to, engagement in, and acquisition of academic language and literacy practices necessary for preparing ELs to be college- and career-ready.

Absolute Priority 6—Improving Parent and Family Engagement

Projects addressing one of the following priority areas:

(a) Developing and implementing initiatives that train parents and families in the skills and strategies that will support their students in improving academic outcomes, including increased engagement and persistence in school.

(b) Developing tools or practices that provide students and parents with improved, ongoing access to and use of data and other information about students' progress and performance.

Absolute Priority 7—Effective Use of Technology

Projects addressing one of the following priority areas:

(a) Providing access to learning experiences that are personalized, adaptive, and self-improving in order to optimize the delivery of instruction to learners with a variety of learning needs.

(b) Developing and implementing technology-enabled strategies for teaching and learning concepts and content (e.g., systems thinking) that are difficult to teach using traditional approaches, such as models and simulations, collaborative virtual environments, or ''serious games.''

Absolute Priority 8—Serving Rural Communities

Under this priority, we provide funding to projects addressing one of the absolute priorities established for the 2013 Development i3 competition and under which the majority of students to be served are enrolled in rural local educational agencies (as defined in this notice).

Definitions

These definitions are from the 2013 i3 NFP. We may apply these definitions in any year in which this program is in effect.

Note: This notice invites applications for Development grants. The following definitions apply to the three types of grants under the i3 program (Scale-up, Validation, or Development). Therefore, some of the definitions included in this section, primarily those related to demonstrations of evidence, may be more applicable to applications for Scale-up and Validation grants.

Consortium of schools means two or more public elementary or secondary schools acting collaboratively for the purpose of applying for and implementing an i3 grant jointly with an eligible nonprofit organization.

Evidence of promise means there is empirical evidence to support the theoretical linkage between at least one critical component and at least one relevant outcome presented in the logic model (as defined in this notice) for the proposed process, product, strategy, or practice. Specifically, evidence of promise means the following conditions are met:

(a) There is at least one study that is either a—

(1) Correlational study with statistical controls for selection bias;

(2) Quasi-experimental study (as defined in this notice) that meets the What Works Clearinghouse Evidence Standards with reservations;[3] or

(3) Randomized controlled trial (as defined in this notice) that meets the What Works Clearinghouse Evidence Standards with or without reservations;[4] and

(b) Such a study found a statistically significant or substantively important (defined as a difference of 0.25 standard deviations or larger), favorable association between at least one critical component and one relevant outcome presented in the logic model for the proposed process, product, strategy, or practice.

High-need student means a student at risk of educational failure or otherwise in need of special assistance and support, such as students who are living in poverty, who attend high-minority schools (as defined in this notice), who are far below grade level, who have left school before receiving a regular high school diploma, who are at risk of not graduating with a diploma on time, who are homeless, who are in foster care, who have been incarcerated, who have disabilities, or who are English learners.

High-minority school is defined by a school's LEA in a manner consistent with the corresponding State's Teacher Equity Plan, as required by section 1111(b)(8)(C) of the ESEA. The applicant must provide, in its i3 application, the definition(s) used.

High school graduation rate means a four-year adjusted cohort graduation rate consistent with 34 CFR 200.19(b)(1) and may also include an extended-year adjusted cohort graduation rate consistent with 34 CFR 200.19(b)(1)(v) if the State in which the proposed project is implemented has been approved by the Secretary to use such a rate under Title I of the ESEA.

Highly effective principal means a principal whose students, overall and for each subgroup as described in section 1111(b)(3)(C)(xiii) of the ESEA (economically disadvantaged students, students from major racial and ethnic groups, migrant students, students with disabilities, students with limited English proficiency, and students of each gender), achieve high rates (e.g., one and one-half grade levels in an academic year) of student growth. Eligible applicants may include multiple measures, provided that principal effectiveness is evaluated, in significant part, based on student growth. Supplemental measures may include, for example, high school graduation rates; college enrollment rates; evidence of providing supportive teaching and learning conditions, support for ensuring effective instruction across subject areas for a well-rounded education, strong instructional leadership, and positive family and community engagement; or evidence of attracting, developing, and retaining high numbers of effective teachers.

Highly effective teacher means a teacher whose students achieve high rates (e.g., one and one-half grade levels in an academic year) of student growth. Eligible applicants may include multiple measures, provided that teacher effectiveness is evaluated, in significant part, based on student academic growth. Supplemental measures may include, for example, multiple observation-based assessments of teacher performance or evidence of leadership roles (which may include mentoring or leading professional learning communities) that increase the effectiveness of other teachers in the school or LEA.

Independent evaluation means that the evaluation is designed and carried out independent of, but in coordination with, any employees of the entities who develop a process, product, strategy, or practice and are implementing it.

[3] *See* What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

[4] *See* What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

Innovation means a process, product, strategy, or practice that improves (or is expected to improve) significantly upon the outcomes reached with status quo options and that can ultimately reach widespread effective usage.

Large sample means a sample of 350 or more students (or other single analysis units) who were randomly assigned to a treatment or control group, or 50 or more groups (such as classrooms or schools) that contain 10 or more students (or other single analysis units) and that were randomly assigned to a treatment or control group.

Logic model (also referred to as theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (i.e., the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally.

Moderate evidence of effectiveness means one of the following conditions is met:

(a) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that: Meets the What Works Clearinghouse Evidence Standards without reservations;[5] found a statistically significant favorable impact on a relevant outcome (as defined in this notice) (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse); and includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice.

(b) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that: Meets the What Works Clearinghouse Evidence Standards with reservations,[6] found a statistically significant favorable impact on a relevant outcome (as defined in this notice) (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse); includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice; and includes a large sample (as defined in this notice) and a multi-site sample (as defined in this notice) (Note: Multiple studies can cumulatively meet the large and multi-site sample requirements as long as each study meets the other requirements in this paragraph).

Multi-site sample means more than one site, where site can be defined as an LEA, locality, or State.

National level describes the level of scope or effectiveness of a process, product, strategy, or practice that is able to be effective in a wide variety of communities, including rural and urban areas, as well as with different groups (e.g., economically disadvantaged, racial and ethnic groups, migrant populations, individuals with disabilities, English learners, and individuals of each gender).

Nonprofit organization means an entity that meets the definition of ''nonprofit'' under 34 CFR 77.1(c), or an institution of higher education as defined by section 101(a) of the Higher Education Act of 1965, as amended.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental design by identifying a comparison group that is similar to the treatment group in important respects. These studies, depending on design and implementation, can meet What Works Clearinghouse Evidence Standards with reservations[7] (they cannot meet What Works Clearinghouse Evidence Standards without reservations).

Randomized controlled trial means a study that employs random assignment of, for example, students, teachers, classrooms, schools, or districts to receive the intervention being evaluated (the treatment group) or not to receive the intervention (the control group). The estimated effectiveness of the intervention is the difference between the average outcome for the treatment group and for the control group. These studies, depending on design and implementation, can meet What Works Clearinghouse Evidence Standards without reservations.[8]

Regional level describes the level of scope or effectiveness of a process, product, strategy, or practice that is able to serve a variety of communities within a State or multiple States, including rural and urban areas, as well as with different groups (e.g., economically disadvantaged, racial and ethnic groups, migrant populations, individuals with disabilities, English learners, and individuals of each gender). For an LEA-based project to be considered a regional level project, a process, product, strategy, or practice must serve students in more than one LEA, unless the process, product, strategy, or practice is implemented in a State in which the State educational agency is the sole educational agency for all schools.

Relevant outcome means the student outcome or outcomes (or the ultimate outcome if not related to students) that the proposed project is designed to improve, consistent with the specific goals of the project and the i3 program.

Rural local educational agency means a local educational agency (LEA) that is eligible under the Small Rural School Achievement (SRSA) program or the Rural and Low-Income School (RLIS) program authorized under Title VI, Part B of the ESEA. Eligible applicants may determine whether a particular LEA is eligible for these programs by referring to information on the Department's Web site at *www2.ed.gov/nclb/freedom/local/reap.html.*

Strong evidence of effectiveness means that one of the following conditions is met:

(a) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that: Meets the What Works Clearinghouse Evidence Standards without reservations;[9] found a statistically significant favorable impact on a relevant outcome (as defined in this notice) (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse); includes a sample that overlaps with the populations and settings proposed to receive the process, product, strategy, or practice; and includes a large sample (as defined in this notice) and a multi-site sample (as defined in this notice). (Note: multiple studies can cumulatively meet the large and multi-site sample requirements as long as each study

[5] *See* What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

[6] *See* What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

[7] *See* What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

[8] *See* What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

[9] *See* What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

meets the other requirements in this paragraph).

(b) There are at least two studies of the effectiveness of the process, product, strategy, or practice being proposed, each of which: Meets the What Works Clearinghouse Evidence Standards with reservations;[10] found a statistically significant favorable impact on a relevant outcome (as defined in this notice) (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the studies or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse); includes a sample that overlaps with the populations and settings proposed to receive the process, product, strategy, or practice; and includes a large sample (as defined in this notice) and a multi-site sample (as defined in this notice).

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model (as defined in this notice).

Student achievement means—

(a) For grades and subjects in which assessments are required under ESEA section 1111(b)(3): (1) A student's score on such assessments and may include (2) other measures of student learning, such as those described in paragraph (b), provided they are rigorous and comparable across schools within an LEA.

(b) For grades and subjects in which assessments are not required under ESEA section 1111(b)(3): Alternative measures of student learning and performance such as student results on pre-tests, end-of-course tests, and objective performance-based assessments; student learning objectives; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across schools within an LEA.

Student growth means the change in student achievement (as defined in this notice) for an individual student between two or more points in time. An applicant may also include other measures that are rigorous and comparable across classrooms.

Program Authority: American Recovery and Reinvestment Act of 2009, Division A, Section 14007, Pub. L. 111–5.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 86, 97, 98, and 99. (b) The Education Department suspension and debarment regulations in 2 CFR part 3485. (c) The notice of final priorities, requirements, definitions, and selection criteria for this program, published in the **Federal Register** on [update date and citation later]

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Cooperative Agreements or discretionary grant awards.

Estimated Available Funds

The Administration has requested $150,000,000 for the Investing in Innovation program for FY 2013. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

These estimated available funds are the total available for all three types of grants under the i3 program (i.e., Scale-up, Validation, and Development grants).

Contingent upon the availability of funds and the quality of the applications received, we may make additional awards in FY 2014 or later years from the list of unfunded applicants from this competition.

Estimated Range of Awards

Scale-up grants: Up to $20,000,000.
Validation grants: Up to $12,000,000.
Development grants: Up to $3,000,000.

Estimated Average Size of Awards

Scale-up grants: $19,000,000.
Validation grants: $11,500,000.
Development grants: $3,000,000.

Estimated Number of Awards

Scale-up grants: 0–2 awards.
Validation grants: 4–8 awards.
Development grants: 10–20 awards.

Note: The Department is not bound by any estimates in this notice.

Project Period: 36–60 months.

III. Eligibility Information

1. *Innovations that Improve Achievement for High-Need Students:* All grantees must implement practices that are designed to improve student achievement (as defined in this notice) or student growth (as defined in this notice), close achievement gaps, decrease dropout rates, increase high school graduation rates (as defined in this notice), or increase college enrollment and completion rates for high-need students (as defined in this notice).

2. *Innovations that Serve Kindergarten-through-Grade-12 (K–12) Students:* All grantees must implement practices that serve students who are in grades K–12 at some point during the funding period. To meet this requirement, projects that serve early learners (i.e., infants, toddlers, or preschoolers) must provide services or supports that extend into kindergarten or later years, and projects that serve postsecondary students must provide services or supports during the secondary grades or earlier.

3. *Eligible Applicants:* Entities eligible to apply for i3 grants include either of the following:

(a) An LEA.

(b) A partnership between a nonprofit organization and—

(1) One or more LEAs; or

(2) A consortium of schools.

Statutory Eligibility Requirements: Except as specifically set forth in the *Note about Eligibility for an Eligible Applicant that Includes a Nonprofit Organization* that follows, to be eligible for an award, an eligible applicant must—

(a)(1) Have significantly closed the achievement gaps between groups of students described in section 1111(b)(2) of the ESEA (economically disadvantaged students, students from major racial and ethnic groups, students with limited English proficiency, students with disabilities); or

(2) Have demonstrated success in significantly increasing student academic achievement for all groups of students described in that section;

(b) Have made significant improvements in other areas, such as high school graduation rates (as defined in this notice) or increased recruitment and placement of high-quality teachers or principals, as demonstrated with meaningful data;

(c) Demonstrate that it has established one or more partnerships with the private sector, which may include philanthropic organizations, and that organizations in the private sector will provide matching funds in order to help bring results to scale; and

(d) In the case of an eligible applicant that includes a nonprofit organization, provide in the application the names of the LEAs with which the nonprofit organization will partner, or the names of the schools in the consortium with

[10] *See* What Works Clearinghouse Procedures and Standards Handbook (Version 2.1, September 2011), which can currently be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.*

which it will partner. If an eligible applicant that includes a nonprofit organization intends to partner with additional LEAs or schools that are not named in the application, it must describe in the application the demographic and other characteristics of these LEAs and schools and the process it will use to select them.

Note: An entity submitting a full application should provide, in Appendix C, under ''Other Attachments Form,'' of its full application, information addressing the eligibility requirements described in this section. An applicant must provide, in the full application, sufficient supporting data or other information to allow the Department to determine whether the applicant has met the eligibility requirements. If the Department determines that an applicant has provided insufficient information in its full application, the applicant will not have an opportunity to provide additional information.

Note: Instructions for the pre-application will be available on the i3 Web site. Entities invited to submit a full application will receive instructions about the full application package.

Note about LEA Eligibility: For purposes of this program, an LEA is an LEA located within one of the 50 States, the District of Columbia, or the Commonwealth of Puerto Rico.

Note about Eligibility for an Eligible Applicant that Includes a Nonprofit Organization: The authorizing statute specifies that an eligible applicant that includes a nonprofit organization meets the requirements in paragraphs (a) and (b) of the eligibility requirements for this program if the nonprofit organization has a record of significantly improving student achievement, attainment, or retention. For an eligible applicant that includes a nonprofit organization, the nonprofit organization must demonstrate that it has a record of significantly improving student achievement, attainment, or retention through its record of work with an LEA or schools. Therefore, an eligible applicant that includes a nonprofit organization does not necessarily need to include as a partner for its i3 grant an LEA or a consortium of schools that meets the requirements in paragraphs (a) and (b) of the eligibility requirements in this notice.

In addition, the authorizing statute specifies that an eligible applicant that includes a nonprofit organization meets the requirements of paragraph (c) of the eligibility requirements in this notice if the eligible applicant demonstrates that it will meet the requirement for private-sector matching.

4. *Cost Sharing or Matching:* To be eligible for an award, an applicant must demonstrate that one or more private-sector organizations, which may include philanthropic organizations, will provide matching funds in order to help bring project results to scale. An eligible applicant must obtain matching funds, or in-kind donations, equal to at least 15 percent of its Federal grant award. The highest-rated eligible applicants must submit evidence of 50 percent of the required private-sector matching funds following the peer review of full applications. A Federal i3 award will not be made unless the applicant provides adequate evidence that the 50 percent of the required private-sector match has been committed or the Secretary approves the eligible applicant's request to reduce the matching-level requirement. An applicant must provide evidence of the remaining 50 percent of required private-sector match six months after the project start date.

The Secretary may consider decreasing the matching requirement on a case-by-case basis, and only in the most exceptional circumstances. An eligible applicant that anticipates being unable to meet the full amount of the private-sector matching requirement must include in its application a request that the Secretary reduce the matching-level requirement, along with a statement of the basis for the request.

Note: An entity does not need to include a request for a reduction of the matching-level requirement in its pre-application. However, an applicant that does not provide a request for a reduction of the matching-level requirement in its full application may not submit that request at a later time.

5. *Other:* The Secretary establishes the following requirements for the i3 program. These requirements are from the 2013 i3 NFP. We may apply these requirements in any year in which this program is in effect.

• *Evidence Standards:* To be eligible for an award, an application for a Development grant must be supported by evidence of promise (as defined in this notice) or strong theory (as defined in this notice). (2013 i3 NFP) Applicants must identify in Appendix D and the Applicant Information Sheet if their evidence is supported by evidence of promise or strong theory.

Note: An entity that submits a full application should provide, in Appendix D, under the ''Other Attachments Form,'' of its application, information addressing the required evidence standards. An applicant must either ensure that all evidence is available to the Department from publicly available sources and provide links or other guidance indicating where it is available; or, in the full application, include copies of evidence in Appendix D. If the Department determines that an applicant has provided insufficient information, the applicant will not have an opportunity to provide additional information at a later time. Applicants must identify in Appendix D and the Applicant Information Sheet if their evidence is supported by evidence of promise or strong theory.

• *Funding Categories:* An applicant will be considered for an award only for the type of i3 grant (i.e., Development, Validation, and Scale-up grants) for which it applies. An applicant may not submit an application for the same proposed project under more than one type of grant. (2013 i3 NFP)

• *Limit on Grant Awards:* (a) No grantee may receive more than two new grant awards of any type under the i3 program in a single year; (b) In any two-year period, no grantee may receive more than one new Scale-up or Validation grant; and (c) No grantee may receive in a single year new i3 grant awards that total an amount greater than the sum of the maximum amount of funds for a Scale-up grant and the maximum amount of funds for a Development grant for that year. For example, in a year when the maximum award value for a Scale-up grant is $25 million and the maximum award value for a Development grant is $5 million, no grantee may receive in a single year new grants totaling more than $30 million. (2013 i3 NFP)

• *Subgrants:* In the case of an eligible applicant that is a partnership between a nonprofit organization and (1) one or more LEAs or (2) a consortium of schools, the partner serving as the applicant and, if funded, as the grantee, may make subgrants to one or more entities in the partnership. (2013 i3 NFP)

• *Evaluation:* The grantee must conduct an independent evaluation (as defined in this notice) of its project. This evaluation must estimate the impact of the i3-supported practice (as implemented at the proposed level of scale) on a relevant outcome (as defined in this notice). The grantee must make broadly available digitally and free of charge, through formal (e.g., peer-reviewed journals) or informal (e.g., newsletters) mechanisms, the results of any evaluations it conducts of its funded activities.

In addition, the grantee and its independent evaluator must agree to cooperate with any technical assistance provided by the Department or its contractor and comply with the requirements of any evaluation of the program conducted by the Department. This includes providing to the Department, within 100 days of a grant award, an updated comprehensive evaluation plan in a format and using such tools as the Department may require. Grantees must update this evaluation plan at least annually to reflect any changes to the evaluation.

All of these updates must be consistent with the scope and objectives of the approved application. (2013 i3 NFP)

• *Communities of Practice:* Grantees must participate in, organize, or facilitate, as appropriate, communities of practice for the i3 program. A community of practice is a group of grantees that agrees to interact regularly to solve a persistent problem or improve practice in an area that is important to them. (2013 i3 NFP)

• *Management Plan:* Within 100 days of a grant award, the grantee must provide an updated comprehensive management plan for the approved project in a format and using such tools as the Department may require. This management plan must include detailed information about implementation of the first year of the grant, including key milestones, staffing details, and other information that the Department may require. It must also include a complete list of performance metrics, including baseline measures and annual targets. The grantee must update this management plan at least annually to reflect implementation of subsequent years of the project. (2013 i3 NFP)

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain a pre-application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *http://www2.ed.gov/programs/innovation/index.html.* To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request a pre-application from ED Pubs, be sure to identify this program or competition as follows: CFDA number 84.411P.

Note: The full application package will be made available to entities invited to submit a full application and additional information will be available on the i3 Web site.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Deadline for Notice of Intent to Submit Pre-Application: April 16, 2013.

We will be able to develop a more efficient process for reviewing grant applications if we know the approximate number of applicants that intend to apply for funding under this competition. Therefore, the Secretary strongly encourages each potential applicant to notify us of the applicant's intent to submit a pre-application by completing a web-based form. When completing this form, applicants will provide (1) the applicant organization's name and address and (2) the one absolute priority the applicant intends to address. Applicants may access this form online at *http://go.usa.gov/2KeF.* Applicants that do not complete this form may still submit a pre-application. Page Limit: For the pre-application, the project narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your pre-application. For the full application, the project narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your full applications.

Pre-Application page limit: Applicants should limit the pre-application narrative to no more than seven pages.

Full-Application page limit: Applicants submitting a full application should limit the application narrative [Part III] for a Development application to no more than 25 pages. Applicants are also strongly encouraged not to include lengthy appendices for the full application that contain information that could not be included in the narrative. Aside from the required forms, applicants should not include appendices in their pre-applications. Applicants for both pre- and full applications should use the following standards:

• A ''page'' is 8.5″ x 11″, on one side only, with 1'' margins at the top, bottom, and both sides.

• Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions.

• Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

• Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The page limit for the full application does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support for the full application. However, the page limit does apply to all of the application narrative section [Part III] of the full application.

Submission of Proprietary Information

Given the types of projects that may be proposed in applications for the i3 program, some applications may include proprietary information as it relates to confidential commercial information. Confidential commercial information is defined as information the disclosure of which could reasonably be expected to cause substantial competitive harm. Upon submission, applicants, in both pre-applications and full applications, should identify any information contained in their application that they consider to be confidential commercial information. Consistent with the process followed in the prior i3 competitions, we plan on posting the project narrative section of funded Development applications on the Department's Web site. Identifying proprietary information in the submitted application will help facilitate this public disclosure process. Applicants are encouraged to identify only the specific information that the applicant considers to be proprietary and list the page numbers on which this information can be found in the appropriate Appendix section, under ''Other Attachments Form,'' of their applications. In addition to identifying the page number on which that information can be found, eligible applicants will assist the Department in making determinations on public release of the application by being as specific as possible in identifying the information they consider proprietary. Please note that, in many instances, identification of entire pages of documentation would not be appropriate.

3. *Submission Dates and Times:*

Pre-Applications Available: March 29, 2013.

Deadline for Notice of Intent to Submit Pre-Application: April 16, 2013.

Informational Meetings: The i3 program intends to hold meetings designed to provide technical assistance to interested applicants for all three types of grants. Detailed information regarding these meetings will be provided on the i3 Web site at *http://www2.ed.gov/programs/innovation/index.html.*

Deadline for Transmittal of Pre-Applications: April 26, 2013.

Deadline for Transmittal of Full Applications: The Department will announce on its Web site the deadline date for transmission of full applications. Under the pre-application process, peer reviewers will read and

score the shorter pre-application against an abbreviated set of selection criteria, and entities that submit highly rated pre-applications will be invited to submit full applications. Other pre-applicants may choose to submit a full application.

Pre- and full applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review of Full Applications: 60 calendar days after the deadline date for transmittal of full applications.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, Central Contractor Registry, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the Central Contractor Registry (CCR)—and, after July 24, 2012, with the System for Award Management (SAM),the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active CCR or SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one business day.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The CCR or SAM registration process may take five or more business days to complete. If you are currently registered with the CCR, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days to complete. Information about SAM is available at SAM.gov.

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/applicants/get_registered.jsp.*

7. *Other Submission Requirements:*

Applications for grants under the i3 program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. Electronic Submission of Applications

Applications (both pre- and full applications) for grants under the i3 program, pre application CFDA 84.411P and full application CFDA number 84.411C (Development grants), must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov*. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the i3 program at *www.Grants.gov*. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.411, not 84.411C).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *http://www.G5.gov*.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; *and*

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Carol Lyons, U.S. Department of Education, 400 Maryland Avenue SW., Room 4W203, Washington, DC 20202–5930. FAX: (202) 205–5631.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. Submission of Paper Applications by Mail

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.411C), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (84.411C), 550 12th Street SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260. The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* This competition has separate selection criteria for pre-applications and full applications. The selection criteria for the Development competition are from the 2013 i3 NFP and from 34 CFR 75.210, and are as follows:

The points assigned to each criterion are indicated in the parenthesis next to the criterion. An applicant may earn up to a total of 20 points based on the selection criteria for the pre-application. An applicant may earn up to a total of 100 points based on the selection criteria for the full application.

Note: In responding to the selection criteria, applicants for both the pre- and full applications should keep in mind that peer reviewers may consider only the information provided in the written application when scoring and commenting on the application. Therefore, applicants should draft their responses with the goal of helping peer reviewers understand:

- What the applicant is proposing to do, including the single absolute priority under which the applicant intends the application to be reviewed;
- How the proposed project will improve upon existing products, processes, or strategies for addressing similar needs;
- What the outcomes of the project will be if it is successful; and
- What procedures are in place for ensuring feedback and continuous improvement in the operation of the proposed project.

Selection Criteria for the Development Grant Pre-Application

A. Significance (Up to 10 Points)

In determining the significance of the project, the Secretary considers the following factors:

(1) The extent to which the proposed project would implement a novel approach as compared with what has been previously attempted nationally. (2013 i3 NFP)

(2) The potential contribution of the proposed project to the development and advancement of theory, knowledge, and practices in the field of study. (34 CFR 75.210)

Note: In responding to this criterion, the Secretary encourages applicants to address how their project is unique and how the project would move the field forward (as opposed to affecting only the entities or individuals being served with grant funds).

B. Quality of Project Design (Up to 10 Points)

In determining the quality of the proposed project design, the Secretary considers the following factors:

(1) The extent to which the proposed project addresses the absolute priority the applicant is seeking to meet. (2013 i3 NFP)

(2) The clarity and coherence of the project goals, including the extent to which the proposed project articulates an explicit plan or actions to achieve its goals (e.g., a fully developed logic model of the proposed project). (2013 i3 NFP)

Note: In responding to this criterion, the Secretary encourages applicants to describe what the applicant proposes to do in the proposed project and how the applicant will address the absolute priority for which it submits an application.

Selection Criteria for the Development Grant Full Application

A. Significance (Up to 35 Points)

In determining the significance of the project, the Secretary considers the following factors:

(1) The extent to which the proposed project would implement a novel approach as compared with what has been previously attempted nationally. (2013 i3 NFP)

(2) The potential contribution of the proposed project to the development and advancement of theory, knowledge, and practices in the field of study. (34 CFR 75.210)

(3) The extent to which the proposed project will substantially improve on the outcomes achieved by other practices, such as through better student outcomes, lower cost, or accelerated results. (2013 i3 NFP)

Note: In responding to this criterion, the Secretary encourages applicants to explain what is unique about their proposed project. Also, the Secretary encourages applicants to explain how their proposed project fits into existing national and international theory, knowledge, or practice, and how it will serve as an exemplar for new practices in the field (as opposed to only benefitting the entities or individuals being served with grant funds). Additionally, the Secretary encourages applicants to quantify the impact of their proposed project if it is successful, and explain why the applicant expects the proposed project to have the described impact.

B. Quality of the Project Design (Up to 25 Points)

In determining the quality of the proposed project design, the Secretary considers the following factors:

(1) The extent to which the proposed project addresses the absolute priority the applicant is seeking to meet. (2013 i3 NFP)

(2) The clarity and coherence of the project goals, including the extent to which the proposed project articulates an explicit plan or actions to achieve its goals (e.g., a fully developed logic model of the proposed project). (2013 i3 NFP)

(3) The clarity, completeness, and coherence of the project goals, and whether the application includes a description of project activities that constitute a complete plan for achieving those goals, including the identification of potential risks to project success and strategies to mitigate those risks. (2013 i3 NFP)

Note: In responding to this criterion, the Secretary encourages applicants to address what activities the applicant will undertake in its proposed project, how the applicant will do it, and how the applicant's proposed project addresses the absolute priority and the subpart that it seeks to meet.

C. Quality of the Management Plan (Up to 15 Points)

In determining the quality of the management plan and personnel for the proposed project, the Secretary considers the following factors:

(1) The extent to which the management plan articulates key responsibilities and well-defined objectives, including the timelines and milestones for completion of major project activities, the metrics that will be used to assess progress on an ongoing basis, and annual performance targets the applicant will use to monitor whether the project is achieving its goals. (2013 i3 NFP)

(2) The extent of the demonstrated commitment of any key partners or evidence of broad support from stakeholders whose participation is critical to the project's long-term success. (2013 i3 NFP)

(3) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project. (34 CFR 75.210)

Note: In responding to this criterion, the Secretary encourages applicants to address how the project team will evaluate the success or challenges of the project and use that feedback to make improvements to the project, and the role of key partners and their impact on the long-term success of the project.

D. Personnel (Up to 10 Points)

In determining the quality and personnel for the proposed project, the Secretary considers the following factor:

(1) The adequacy of the project's staffing plan, particularly for the first year of the project, including the identification of the project director and, in the case of projects with unfilled key personnel positions at the beginning of the project, that the staffing plan identifies how critical work will proceed. (2013 i3 NFP)

Note: In responding to this criterion, the Secretary encourages applicants to address how the team's prior experiences have prepared them for implementing the proposed project successfully.

E. Quality of Project Evaluation (Up to 15 Points)

In determining the quality of the project evaluation to be conducted, the Secretary considers the following factors:

(1) The clarity and importance of the key questions to be addressed by the project evaluation, and the appropriateness of the methods for how each question will be addressed. (2013 i3 NFP)

(2) The extent to which the evaluation plan includes a clear and credible analysis plan, including a proposed sample size and minimum detectable effect size that aligns with the expected project impact, and an analytic approach for addressing the research questions. (2013 i3 NFP)

(3) The extent to which the evaluation plan clearly articulates the key components and outcomes of the project, as well as a measureable threshold for acceptable implementation. (2013 i3 NFP)

Note: In responding to this criterion, the Secretary encourages applicants to describe the key evaluation questions and address how the proposed evaluation methodologies will allow the project to answer those questions. This may include whether the evaluation would produce information about the effectiveness of the proposed project with the specific student populations being served with grant funds. Further, the Secretary encourages applicants to identify what implementation and performance data the evaluation will generate and how the evaluation will provide data during the period to help indicate whether the project is on track to meet its goals.

We encourage eligible applicants to review the following technical assistance resources on evaluation:

(1) What Works Clearinghouse Procedures and Standards Handbook: *http://ies.ed.gov/ncee/wwc/references/idocviewer/doc.aspx?docid=19&tocid=1;* and (2) IES/NCEE Technical Methods papers: *http://ies.ed.gov/ncee/tech_methods/*.

2. *Review and Selection Process:* In order to receive an i3 Development grant, an entity must submit a pre-application. The pre-application will be reviewed and scored by peer reviewers using the two selection criteria established in this notice. We will inform the entities that submitted pre-applications of the results of the peer review process. Entities with highly rated pre-applications will be invited to submit full applications. Other pre-applicants may choose to submit a full application. Scores received on pre-applications will not carry over to the review of the full application.

As described earlier in this notice, before making awards, we will screen applications submitted in accordance with the requirements in this notice to determine which applications have met eligibility and other statutory requirements. This screening process may occur at various stages of the pre-application and full application processes; applicants that are determined ineligible will not receive a grant, regardless of peer reviewer scores or comments.

For the pre- and full application review process, we will use independent peer reviewers with varied backgrounds and professions including pre-kindergarten–12 teachers and principals, college and university educators, researchers and evaluators, social entrepreneurs, strategy consultants, grant makers and managers, and others with education expertise. All reviewers will be thoroughly screened for conflicts of interest to ensure a fair and competitive review process.

Peer reviewers will read, prepare a written evaluation, and score the assigned pre-applications and full applications, using the respective selection criteria provided in this notice. For Development pre-applications, peer reviewers will review and score the applications based on the two selection criteria for pre-applications. For full applications submitted for Development grants, peer reviewers will review and score the applications based on all five selection criteria.

We remind potential applicants that, in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

Finally, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary

may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html*.

4. *Performance Measures:* The overall purpose of the i3 program is to expand the implementation of, and investment in, innovative practices that are demonstrated to have an impact on improving student achievement or student growth for high-need students. We have established several performance measures for the i3 Development grants.

Short-term performance measures: (1) The percentage of grantees whose projects are being implemented with fidelity to the approved design; (2) the percentage of programs, practices, or strategies supported by a Development grant with ongoing evaluations that provide evidence of their promise for improving student outcomes; (3) the percentage of programs, practices, or strategies supported by a Development grant with ongoing evaluations that are providing high-quality implementation data and performance feedback that allow for periodic assessment of progress toward achieving intended outcomes; and (4) the cost per student actually served by the grant.

Long-term performance measures: (1) The percentage of programs, practices, or strategies supported by a Development grant with a completed evaluation that provides evidence of their promise for improving student outcomes; (2) the percentage of programs, practices, or strategies supported by a Development grant with a completed evaluation that provides information about the key elements and approach of the project so as to facilitate further development, replication, or testing in other settings; and (3) the cost per student for programs, practices, or strategies that were proven promising at improving educational outcomes for students.

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Carol Lyons, U.S. Department of Education, 400 Maryland Avenue SW., Room 4W203, Washington, DC 20202–5930. Telephone: (202) 453–7122. FAX: (202) 205–5631 or by email: *i3@ed.gov*.

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: March 21, 2013.

James H. Shelton, III,

Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. 2013–07003 Filed 3–26–13; 8:45 am]

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Part III

Department of Housing and Urban Development

24 CFR Part 579

Homeless Emergency Assistance and Rapid Transition to Housing: Rural Housing Stability Assistance Program and Revisions to the Definition of ''Chronically Homeless''; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 579

[Docket No. 5573–P–01]

RIN 2506–AC33

Homeless Emergency Assistance and Rapid Transition to Housing: Rural Housing Stability Assistance Program and Revisions to the Definition of ''Chronically Homeless''

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Proposed rule.

SUMMARY: The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act), enacted into law on May 20, 2009, consolidates three of the separate homeless assistance programs administered by HUD under the McKinney-Vento Homeless Assistance Act into a single Continuum of Care program, revises the Emergency Shelter Grants program and renames this program the Emergency Solutions Grants program, and creates the Rural Housing Stability Assistance program to replace the Rural Homelessness Grant program.

The HEARTH Act also directs HUD to promulgate regulations for these new programs and processes. This proposed rule would provide for the establishment of regulations to implement the new Rural Housing Stability Assistance program. In addition to proposing the regulatory framework for the new Rural Housing Stability Assistance program, this rule also proposes to establish a definition for ''chronically homeless'' that includes a definition of ''homeless occasion'' that better targets persons with the longest histories of homelessness and the highest level of need.

DATES: *Comment Due Date.* May 28, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, 451 7th Street SW., Room 10276, Department of Housing and Urban Development, Washington, DC 20410–0500. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500.

2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov*. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m., eastern time, weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number). Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ann Marie Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410–7000; telephone number 202–708–4300 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number through TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of and Legal Authority for This Proposed Rule

This proposed rule would establish the regulations for the Rural Housing Stability Assistance program authorized by the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act). Section 1504 of the HEARTH Act directs HUD to establish regulations for this program. (See 42 U.S.C. 11301.) The purpose of the Rural Housing Stability Assistance program is to rehouse or improve the housing situations of individuals and families who are homeless or in the worst housing situations in the geographic area; stabilize the housing of individuals and families who are in imminent danger of losing housing; and improve the ability of the lowest-income residents of the community to afford stable housing.

Section 491 of the McKinney-Vento Act (42 U.S.C. 11408) establishes the new Rural Housing Stability Assistance program which replaces the Rural Homelessness Grant program, a program that was authorized but never implemented, and which expands the types of eligible activities available to recipients under the predecessor program. This new program provides grants competitively for rural counties in lieu of grants under the Continuum of Care program (42 U.S.C. 11408(a). The Rural Housing Stability Assistance program focuses on the homeless issues that are unique to rural areas. Grants under the Rural Housing Stability Assistance program may be used for items such as rent, mortgage, utility assistance; relocation assistance; short-term emergency lodging; new construction; acquisition; rehabilitation; emergency food and clothing; employment assistance and job training; health related services; housing search and counseling services; referrals to legal services; mental health services; substance abuse treatment services; and transportation.

Summary of Major Provisions

The major provisions of this proposed rule relate to how to establish and operate a Rural Housing Stability Assistance program, how to apply for funds under the program, and how to use the funds for projects approved by HUD. These provisions are summarized below.

1. *General Provisions (Subpart A):* This section proposes the key definitions for the Rural Housing Stability Assistance program. Of particular note, the terms ''county'' and ''county equivalent'' would be defined

to mean organized local governments authorized in state constitutions and statutes and established to provide general government. This definition reflects the meaning of ''county'' used by the United States Census Bureau, and creates clear boundaries and coincides with existing programs that are generally defined by existing state and local government boundaries. In addition, ''rural area'' and ''rural community'' would be defined in terms of the geographical equivalent of a ''county.'' Although section 491(k)(2) of the McKinney-Vento Act provides a definition for the terms ''rural area'' and ''rural community,'' HUD determined that it is necessary to further define these terms in order to clarify the geographic areas eligible to receive assistance under this program, and to make the administration of the program more feasible. Under this program, the term ''worst housing situation'' would be defined to mean housing that has serious health and safety defects and at least one major system that has failed or is failing. HUD construes this category as meaning those individuals and families in housing situations who are in dire need of assistance due to the physical condition of their homes.

In addition to defining these terms, in this proposed rule, HUD follows through on the commitment made in the Continuum of Care interim rule published on July 31, 2012, to submit for comment any proposed revision to the definition of ''chronically homeless,'' specifically defining in this definition what is meant by an ''occasion of homelessness.'' This proposed rule includes a further revised definition of chronically homeless.

2. *Application (Subpart B):* The section proposes that in order to be eligible for funds under the Rural Housing Stability Assistance program, an eligible applicant must be either a county government or a designee of the county government that agrees to represent the county. Units of local governments and private nonprofit entities may be selected as the designee by the county, based upon a written designation, and would be required to support the needs of the county. Under this proposed rule, this subpart provides that only one applicant per county may apply for program funds because HUD intends to award one lump sum award to an approved county, or its designee, with one grant per county. Funds awarded under this program are in lieu of grants awarded under the Continuum of Care program, and funds awarded to a county shall only be awarded under either the Continuum of Care program or the Rural Housing Stability Assistance program. A county may apply for funds under either program, but not both. Any county must make a determination before it submits an application whether it will submit a Rural Housing Stability Assistance program application or a Continuum of Care application; counties cannot submit both applications simultaneously.

3. *Eligible Activities (Subpart C):* Grant assistance under the Rural Housing Stability Assistance program is available for rent, mortgage, and utility assistance; relocation assistance; short-term emergency lodging; new construction; acquisition; rehabilitation; leasing; rental assistance; operating costs, rehabilitation, and repairs to make premises habitable; supportive services; use of Federal inventory property; capacity building; data collection costs; and administrative costs. HUD will issue notices and policy guidance to elaborate on specific activities that are eligible for funding.

4. *Grant Selection and Award Process (Subpart D):* HUD proposes to award funds to recipients through a national competition based on seven selection criteria, such as the participation of potential program beneficiaries of the grant in assessing the need for and importance of the grant in the county; the degree to which the grant addresses the worst housing situations present in the county; and the performance of the organization in improving housing situations, taking account of the severity of barriers of individuals and families served by the organization. Under this program, not less than 50 percent of the total funds awarded shall be for recipients serving communities with populations of less than 10,000. Within this set-aside, priority must be given to recipients serving counties with populations of less than 5,000. Priority will be given to eligible recipients serving communities not currently receiving significant Federal assistance under the McKinney-Vento Act.

5. *Program Requirements (Subpart E):* Under this proposed rule, all recipients of funding under the Rural Housing Stability Assistance program must comply with the program regulations and the requirements of the Notice of Funding Availability (NOFA) that HUD will issue each year. The HEARTH Act requires a minimum of 25 percent cash or in-kind match on all eligible funding costs except leasing. Recipients of grant funds must also abide by other applicable requirements, such as housing quality standards and suitable dwelling size; limitations on transitional housing; limitations on use of funds; initiating and completing approved activities and projects within certain timelines; and providing a formal process for termination of assistance to participants who violate program requirements or conditions of occupancy.

6. *Grant Administration (Subpart F):* Under this proposed rule, recipients of funding under the Rural Housing Stability Assistance program would be required to collect and report data using methods determined by HUD. These methods shall include, at a minimum, participation in a Homeless Management Information System (HMIS), a point-in-time count, and an annual housing inventory count. To effectively administer the grants, HUD will provide technical assistance through a variety of methods to assist recipients with complying with requirements under this program. After having been selected for funding, grant recipients must satisfy certain recordkeeping requirements so that HUD can assess compliance with the program requirements. For any amendments to grants after the funds have been awarded, HUD has established a separate amendment procedure. As appropriate, HUD has also established sanctions to strengthen its enforcement procedures.

Benefits and Costs

These proposed regulations are intended to work toward the goal of eliminating homelessness in rural communities, by providing the requirements for the new Rural Housing Stability Assistance program, which focuses on improving homeless assistance and prevention in rural areas. This program would fund eligible activities for the purpose of rehousing and improving the housing situations of individuals and families who are homeless or in the worst housing situations in the geographic area, stabilizing the housing of individuals and families who are at risk of becoming homeless, and improving the ability of the lowest-income residents of the community to afford stable housing. In addition, this proposed rule establishes a definition of ''chronically homeless'' that aids HUD and local jurisdictions in being able to better estimate the number of chronically homeless, and will aid HUD and local jurisdictions in targeting resources to strategies designed to reduce the number of chronically homeless.

Congress appropriated a total of $1,593,000,000 for the Continuum of Care and Rural Housing Stability Assistance programs. (See Consolidated and Further Continuing Appropriations Act, 2012, Public Law 112–55, approved

November 18, 2011.) With the Continuum of Care program as an established program, established first administratively by HUD and then statutorily by the HEARTH Act, the overwhelming majority of appropriated funds have been allocated to the Continuum of Care program.

I. Background—HEARTH Act

On May 20, 2009, the President signed into law legislation entitled ''An Act to Prevent Mortgage Foreclosures and Enhance Mortgage Credit Availability,'' which became Public Law 111–22. This new law implements a variety of measures directed toward keeping individuals and families from losing their homes. Division B of this new law is the HEARTH Act, which consolidates and amends three separate homeless assistance programs carried out under title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 *et seq.*) (McKinney-Vento Act) into a single Continuum of Care program that is designed to improve administrative efficiency and enhance response coordination and effectiveness in addressing the needs of homeless persons. The former Emergency Shelter Grants program is renamed the Emergency Solutions Grants program and revised to broaden the activities that are eligible for funding as emergency shelter and homelessness prevention activities and to add rapid rehousing activities as eligible activities. Section 491 of the McKinney-Vento Act (42 U.S.C. 11408) establishes the new Rural Housing Stability Assistance program (or RHSP), which replaces the Rural Homelessness Grant program, a program that was authorized but never implemented, and expands the types of eligible activities, which could not have been funded under the predecessor Rural Homelessness Grant program. This new program provides grants competitively for rural counties, in lieu of grants under the Continuum of Care program (or CoC program). While the emphasis of the Continuum of Care program is on promoting communitywide planning to end homelessness, and that of the Emergency Solutions Grants program is on improving the quantity and quality of emergency or transitional shelters and homelessness prevention, the RHSP focuses largely on the homeless issues that are unique to rural areas, including stabilizing the housing of individuals in imminent danger of losing housing, through rehabilitation of existing housing or construction of new transitional or permanent housing.

HUD commenced the process to implement the HEARTH Act with a proposed rule, which published on April 20, 2010 (75 FR 20541) and titled ''Defining Homeless.'' That proposed rule sought to clarify and elaborate upon the new McKinney-Vento Act definitions for ''homeless'' and ''homeless individual with a disability.'' In addition, the proposed rule included recordkeeping requirements related to the ''homeless'' definition. The final rule, titled ''Defining Homeless,'' was published on December 5, 2011 (76 FR 75994). On December 5, 2011, HUD also published an interim rule, titled the ''Emergency Solutions Grants Rule.'' (See 76 FR 75954.) This interim rule established the program requirements for the Emergency Solutions Grants Program and contained corresponding amendments to the Consolidated Plan regulations. On December 9, 2011, at 76 FR 76917, HUD continued the process to implement the HEARTH Act with the publication of the proposed rule titled ''Homeless Management Information Systems Requirements,'' which proposed uniform technical requirements for HMIS to ensure proper data collection and maintenance of the database and protect the confidentiality of the information in the database. On July 31, 2012, at 77 FR 45422, HUD published an interim rule for a second HEARTH Act program, the Continuum of Care program. The rulemaking for the Rural Housing Stability Assistance program, which commences with this proposed rule, will conclude the initial stage of HUD's implementation of the HEARTH Act programs.

II. Overview of Proposed RHSP Regulations

This section of the preamble provides an overview of the proposed regulations for the RHSP that are proposed by this rule.

General Provisions (Subpart A)

This subpart sets out the general provisions applicable to RHSP.

Purpose and Scope (§ 579.1)

This section provides that the RHSP is designed to provide assistance for rural counties to rehouse or improve the housing situations of, individuals and families who are homeless or in the worst housing situations; stabilize the housing of individuals and families who are at risk of homelessness; and improve the ability of the lowest-income residents to afford stable housing. The language in the statute refers to stabilizing the housing of individuals and families who are ''in imminent danger of losing housing.'' Because HUD would define ''in imminent danger of losing housing'' the same way it defines ''at risk of homelessness,'' HUD has opted to use the term ''at risk of homelessness'' to maintain consistency with the CoC (77 FR 45422) and ESG (76 FR 75954) regulations, as implemented per the HEARTH Act.

Definitions (§ 579.3)

The definitions section of these proposed regulations also includes definitions for which public comment has already been solicited. The definitions of ''homeless,'' ''homeless individual,'' and ''homeless person'' were established by the December 5, 2011, Defining Homeless final rule (76 FR 75994). The December 5, 2011, final rule was preceded by an April 20, 2010, proposed rule (75 FR 20451), which sought public comment on these definitions. The final definitions of these terms took into consideration the public comment received on the proposed definitions as set out in the April 20, 2010, proposed rule. The definition of ''at risk of homelessness'' was established by the Emergency Solutions Grants program interim rule (76 FR 7954) published on December 5, 2011. The interim rule sought public comment on this definition and additional public comment is not sought through this proposed rule. HUD believes it is very important to have identical definitions of these terms across its programs addressing homelessness, to the extent feasible.

The definitions section defines key terms used in this proposed rule. HUD solicits public comment on the following key terms.

Abbreviated Consolidated Plan. An ''abbreviated consolidated plan'' is defined as an assessment of housing and homeless needs, resources, and planned activities that are appropriate for the type and amount of assistance sought from HUD. Community Development Block Grant (CDBG) entitlement communities, under 24 CFR part 570, subpart D, and participating jurisdictions in the HOME Investments Partnerships (HOME) program, under 24 CFR part 92, are required to submit consolidated plans to assess the housing needs of their areas. If a county does not have its own consolidated plan then it must create an abbreviated consolidated plan in order to perform the requisite need and resource assessment to qualify for funding under the RHSP. In almost all circumstances, an eligible applicant under RHSP is participating in a statewide consolidated plan and thus is not a CDBG or HOME entitlement community. Therefore, in most cases, eligible applicants under the RHSP program would be required to submit an abbreviated consolidated plan. In order

to ensure that reasonable planning efforts specific to the county receiving funds are made, each county applying for funds, directly or through a designated applicant, will be required to prepare and submit an abbreviated consolidated plan, in accordance with 24 CFR 91.235, as part of the application process.

Chronically homeless. As noted earlier in this preamble, HUD submits for public comment a further revised definition of ''chronically homeless.'' The definition of ''chronically homeless'' was first introduced in the corresponding amendments to the Consolidated Plan interim rule, published on December 5, 2011, at 76 FR 75954. The Consolidated Plan interim rule tracked the statutory definition of ''chronically homeless,'' but defined for the first time an ''occasion of homelessness'' or ''homeless occasion'' to mean a period of at least 15 days. Specifically, the definition of chronically homeless that includes the definition of homeless occasion, as provided in the Consolidated Plan interim rule, reads as follows: ''An individual who * * * has been homeless and living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter continuously for at least one year or on at least four separate occasions in the last 3 years, where each homeless occasion was at least 15 days.''

In the preamble to the Consolidated Plan interim rule, HUD explained the inclusion of the 15-day period as follows: ''The regulatory definition of 'chronically homeless' does not elaborate significantly on the statutory definition. However, HUD has determined that when an individual or family has not been continuously homeless for at least one year but has been homeless on at least four separate occasions in the last 3 years, each separate occasion must be at least 15 days in duration to ensure consistency for counting and eligibility purposes. HUD has determined that the 15-day minimum is an appropriate measure to distinguish the chronically homeless from the homeless population in general, so as to recognize chronically homeless people who have spent a significant amount of time as homeless.''

In the development of the Continuum of Care (CoC) program interim rule, published on July 31, 2012, at 77 FR 45422, HUD already had received and commenced review of the public comments received on the ESG's rule definition of ''chronically homeless,'' and decided to address this definition in the CoC program rule. In the preamble to the CoC program rule, HUD stated as follows:

> HUD received valuable public comment on the definition of ''chronically homeless,'' through the public comment process on the Emergency Solutions Grants program interim rule. Based on public comment, this rule for the Continuum of Care program is not adopting the full definition of ''chronically homeless'' that was included in the conforming amendments to the Consolidated Plan that were published as a part of the Emergency Solutions Grants program rule. Commenters raised concerns with the meaning of the phrase ''where each homeless occasion was at least 15 days.'' The concerns raised about this phrase, used for the first time in a definition of ''chronically homeless,'' has caused HUD to reconsider proceeding to apply a definition that includes this phrase, without further consideration and opportunity for comment. In this rule, HUD therefore amends the definition of ''chronically homeless'' in the Consolidated Plan regulations to strike this phrase. The removal of this phrase returns the definition to one with which service providers are familiar.

On May 30, 2012, HUD convened an informal gathering of nationally recognized experts involved in homelessness to seek individual views and suggestions on the definition of chronically homeless. The attendees at these meetings and a summary of the statements made are available at HUD's Web site at *http://www.hudhre.info.* In addition to the May 30, 2012, meeting, HUD reached out to the U.S. Interagency Council on Homelessness (USICH), and to several CoC leads for their views on a workable definition of chronically homeless. Based on this feedback, this proposed rule, submits for public comment a definition of ''chronically homeless'' that defines ''homeless occasion in paragraph (1)(ii) of the definition as ''has been homeless and living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter continuously for at least one year or on at least four separate occasions in the last 3 years, where the cumulative total of the four occasions is at least one year. Stays in institutions of 90 days or less will not constitute a break in homelessness, but rather such stays are included in the cumulative total; * * *'' (The additional language is highlighted in bold.)

HUD believes that this definition of ''homeless occasion'' in paragraph (1)(ii) better targets persons with the longest histories of homelessness and therefore the highest level of need. The definition of ''homeless occasion'' also allows for limited resources to be more effectively targeted and considers stays in institutions to be part of an episode of homelessness. HUD has chosen the duration of one year to be consistent with section 401(2)(A)(ii) of the HEARTH Act, which discusses a one year timeframe, and based on consensus from the participants in the expert convening on the ''chronically homeless'' definition. Additionally, HUD adopted the 90 day or less duration in institutions to be consistent with section 401(2)(B) of the HEARTH Act.

Because the definition of ''chronically homeless'' applies to all of HUD's homeless assistance programs, at the conclusion of the public comment period of this proposed rule, HUD plans to review the public comments on the definition and incorporate a final definition of ''chronically homeless'' into the final rules for the Continuum of Care program, Emergency Solutions Grants program, and the corresponding amendments to the Consolidated Plan.

Specific solicitation of comment. HUD specifically solicits comment on the definition of ''homeless occasion'' in the definition of ''chronically homeless.''

County and *county equivalent.* The terms ''county'' and ''county equivalent'' are defined to mean organized local governments authorized in State constitutions and statutes and established to provide general government. This includes governments designated as boroughs in Alaska, as parishes in Louisiana, and as counties in other States. This definition reflects the meaning of ''county'' used by the United States Census Bureau (see *http://www.census.gov/geo/www/geo_defn.html#County*), and creates clear boundaries and coincides with existing programs that are generally defined by existing State and local government boundaries.

Private nonprofit organization. A private nonprofit organization is defined as a secular or religious organization described in section 501(c) of the Internal Revenue Code (IRC) of 1986 (26 U.S.C. 501(c)), that is exempt from taxation under subtitle A of the IRC, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance. A private nonprofit organization does not include a governmental organization, such as a public housing agency or housing finance agency.

Program participant. The definition for ''program participant'' covers the three categories of beneficiaries eligible to receive assistance under this program. Those categories of beneficiaries are individuals and families who are: (1) homeless (as defined by the Emergency Solutions Grants rule at 76 FR 75954), (2) at risk

of homelessness (as defined by the Defining Homelessness rule at 76 FR 75994), or (3) in the worst housing situations (as proposed below in 24 CFR 579.3).

Recipient. ''Recipient'' is defined as an applicant that signs a grant agreement with HUD. Unless otherwise stated, subrecipients are required to comply with all requirements that apply to recipients.

Rural area and *rural community.* ''Rural area'' and ''rural community'' are defined in terms of the geographical equivalent of a ''county.'' The HEARTH Act authorizes grants to eligible recipients under this program to carry out activities in ''rural areas.'' Section 491(k)(2) of the McKinney-Vento Act defines the terms ''rural area'' and ''rural community,'' as: any area or community, respectively, no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget; any area or community, respectively, that is (i) within an area designated as a metropolitan statistical area or considered as part of a metropolitan statistical area; and (ii) located in a county where at least 75 percent of the population is rural; or any area or community, respectively, located in a State that has population density of less than 30 persons per square mile (as reported in the most recent decennial census), and of which at least 1.25 percent of the total acreage of such State is under Federal jurisdiction, provided that no metropolitan city (as such term is defined in section 5302 of this title) in such State is the sole beneficiary of the grant amounts awarded under this section.

However, HUD determined that it is necessary to further define these terms in order to clarify the geographic areas eligible to receive assistance under this program, and to make the administration of the program more feasible.

HUD concluded that defining the terms ''rural area'' and ''rural community'' as rural ''counties'' would achieve these goals. Using the definition in the McKinney-Vento Act and substituting ''county'' for ''area'' and ''community'' allows HUD to more efficiently administer the program because HUD geographic codes are based on metropolitan cities, urban counties, and nonurban counties. The definition allows for a clear and consistent geographic area to be used, and eliminates ambiguities regarding what areas could qualify for assistance under the program. Further, HUD determined that this definition is consistent with Congressional intent in that it ensures the feasible administration of the program while also ensuring that assistance is provided to rural areas. More importantly, this approach would not unfairly limit participation in the program. Using this definition, HUD's Office of Policy Development and Research found that more than 2,000 counties or county equivalents in the United States would qualify as ''rural.'' HUD's Office of Policy Development and Research will run a report of eligible counties each year, which HUD will use to establish the list of eligible applicants annually.

Worst housing situation. The term ''worst housing situation'' is defined to mean housing that has serious health and safety defects and at least one major system that has failed or is failing. HUD construes this category as meaning those individuals and families in housing situations that are in dire need of assistance due to the physical condition of their homes. Individuals and families eligible for assistance because they are in the worst housing situations may be renting, or may be households that are residing in their own participant-owned housing, as further described in this rule.

Application (Subpart B)

This subpart sets forth the requirements for applicants that are eligible to apply for assistance under the RHSP to serve rural counties and outlines the grant application process, including requirements related to the submission of an abbreviated consolidated plan.

Eligible Applicants (§ 579.100)

Section 491(e) of the McKinney-Vento Act provides that organizations eligible to receive a RHSP grant are private nonprofit entities, and county and local governments. Because recipients under this program will be serving rural counties that meet the definition of a rural area, which HUD proposed to define as the same as a rural county, § 579.100 would require that the eligible applicant must either be a county government or a designee of the county government that agrees to represent the county. Units of local governments and private nonprofit entities may be selected as the designee by the county, based upon a written designation, and would be required to support the needs of the county.

Section 579.100 would provide that only one applicant per county may apply for program funds. HUD proposes to impose this limitation because HUD intends to award one lump sum award to an approved county, or its designee, with one grant per county. By awarding one grant per county, HUD will be able to impact a greater number of rural counties and more efficiently use its funds. This will impact a greater number of rural counties because each county will be limited to a certain dollar amount. Creating a ceiling for each county allows more counties to receive funding. Limiting a county to one application would ensure that HUD funds are used more efficiently because a county would be required to carefully determine its needs and articulate in the application how the funding will best serve those needs. The county, or its designee, may choose subrecipients to carry out the approved activities in the grant, once awarded.

Every county government must submit an abbreviated consolidated plan that is applicable to the RHSP, in accordance with 24 CFR 91.235. However, a county government that is a CDBG entitlement community under 24 CFR 570, subpart D, or that is expected to be a participating jurisdiction in the HOME program under 24 CFR part 92 and has established a consolidated plan for its county, may submit the consolidated plan instead of an abbreviated consolidated plan. An abbreviated consolidated plan includes information that would be required by a grant application; including an assessment of housing and homeless needs, obstacles to meeting underserved need, available resources, and planned activities. Other information that may be required in the plan are the funding priorities, how awarded funds will be used to address identified needs, and the goals and measurable objectives that will be initiated and completed within the time period covered by the plan. HUD is adopting this requirement as part of the application process in order to ensure that reasonable planning efforts specific to the county benefiting from grant funds have been made. The required elements would be further identified in a NOFA.

Section 579.100 also addresses exclusions that apply to the application process for the RHSP. Sections 491(a) and 491(m) of the McKinney-Vento Act provide that funds awarded under the RHSP are in lieu of grants awarded under subtitle C, which is the Continuum of Care (CoC) program; funds awarded to a county shall only be awarded under either the CoC program or the RHSP. Section 579.100 would implement this requirement by establishing that a county may apply for funds under either the CoC program or the RHSP, but not both.

To apply for funds, a rural county that has previously been claimed by a CoC must withdraw from that CoC and

cannot be included in the CoC's application for funds. This also means that the county's preliminary pro rata need (PPRN) amount cannot be included in the CoC's Final Pro Rata Need, even if the PPRN was included in previous years. If at least one CoC-funded project is currently operating within the county, the county, either directly or through a designee such as a private nonprofit organization, would be ineligible to apply for funds under the RHSP program until that grant has expired, been reallocated, or transferred to a new recipient in a different jurisdiction within the CoC.

Further, this exclusion would apply to the county as well as all metropolitan cities located within the county. For example, Clark County, Nevada, meets the qualifying criteria as a rural county because it is located in a State that has population density of less than 30 persons per square mile and of which at least 1.25 percent of the total acreage of such State is under Federal jurisdiction. Las Vegas, North Las Vegas, and Henderson are all metropolitan cities located within Clark County that have unique geo codes and could be claimed as separate entities under the CoC. However, if Clark County chose to apply for funds through the RHSP in a given year, Clark County, Las Vegas, North Las Vegas, and Henderson would all be required to withdraw from the CoC. If a project is currently operating in any of those areas, Clark County would not be eligible to apply for RHSP funds in a given year.

The purpose of awarding RSHP funds in lieu of CoC funds is not to encourage counties that are active within a CoC to disengage from a process that is working. Instead, the RHSP is intended to reach those counties that may or may not have been claimed by a CoC in the past, and the counties' needs have not been met through that program. Rural counties that withdraw from a CoC in order to apply for RHSP funds are encouraged to continue coordination and collaboration efforts when appropriate. However, recipients of funds under the RHSP are not eligible to receive funding under the CoC program nor can funds from the two programs be combined in any other way.

Application Process (§ 579.102)

Funds awarded under RHSP will be awarded through an annual application process in response to issuance of a NOFA. HUD will issue a list of counties eligible to apply for funds in a particular fiscal year. HUD's NOFA will outline the selection criteria specified in section 491(g) of the McKinney-Vento Act, as well as other criteria that HUD may deem necessary in a given year.

Formula calculation. One criterion for selection of applicants is the need for RHSP funds as determined by the formula established under section 427(b)(2) of the McKinney-Vento Act. The formula establishes PPRN amounts that reflect the needs of geographic areas.

Section 579.102 defines PPRN as the dollar expression of the relative need assigned to metropolitan cities, urban counties, and all other counties, determined by HUD in accordance with HUD's regulations for the CoC program at 24 CFR 578.17.[1] The formula uses nationally available data, including the following factors as used in the CDBG formula and Emergency Solutions Grant formula on poverty, housing overcrowding, population, age of housing, and growth lag.

To determine a rural county's PPRN, HUD will calculate the sum of the PPRN amount for the rural county as well as any metropolitan cities therein. HUD will announce the PPRN amounts prior to issuance of the NOFA on its Web site. The cumulative PPRN amount for the rural county will be the basis for determining the maximum award amount for which the county may apply. The maximum award amount for which an eligible county may apply will be provided in the NOFA. Applicants are encouraged to use this information to determine whether to apply for funding under the RHSP.

Subsidy Layering (§ 579.104)

Applicants must conform to the subsidy layering requirements, in section 102 of the Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545), and the regulations in 24 CFR part 4, subpart A. Subsidy layering occurs when a project receives funds from more than one governmental jurisdiction. A subsidy layering analysis is required to assure that Federal resources are not duplicative or wasteful. In accordance with the statutory requirement, § 579.104 provides for applicants to submit information regarding other governmental assistance to help HUD determine whether excessive public assistance is being provided to an interim project or activities by combining (layering) assistance under this program with other governmental housing assistance from Federal, State, or local agencies, including assistance such as tax concessions or tax credits.

Environmental Review (§ 579.106)

HUD will perform an environmental review for each property as required under HUD's regulations in 24 CFR part 50. All recipients of RHSP funding must supply all available, relevant information necessary to HUD and carry out mitigating measures required by HUD. The recipient, its project partners, and their contractors may not perform any eligible activity for a project under the RHSP, or commit or expend HUD or local funds for such activities until HUD has performed an environmental review and the recipient has received HUD approval of the property.

Eligible Activities (Subpart C)

Subpart C addresses the eligible activities under RHSP. Section 430 of the McKinney-Vento imposes a requirement for a 25 percent match; however the requirement is applied to the project as a whole, rather than by individual activities.

Types of Assistance (§ 579.200)

Grant assistance is available for rent, mortgage, and utility assistance; relocation assistance, short-term emergency lodging; new construction; acquisition; rehabilitation; leasing; rental assistance; operating costs, rehabilitation and repairs to make premises habitable; supportive services; use of Federal inventory property; capacity building; data collection costs, and administrative costs. Section 579.200 provides the eligible uses of grant assistance under subpart C, but HUD will issue notices and policy guidance to elaborate, through examples and frequently asked questions on specific activities that are eligible for RHSP funding. Structures used to provide housing or supportive services may also be used for other purposes, but RHSP assistance will be available only in proportion to the use of the structure for supportive housing or supportive services.

Rent, Mortgage, and Utility Assistance (§ 579.202)

The McKinney-Vento Act authorizes the provision of rent, mortgage, and utility assistance after 2 months of nonpayment, in order to prevent eviction, foreclosure, or loss of utility service as an eligible activity. The 2 months of nonpayment period required under § 579.202 is established by section 491(b)(1)(A) of the McKinney-Vento Act. Under § 579.202, this assistance can be provided to a program participant for a period of up to 12

[1] HUD has proposed to codify the regulations for the CoC program in a new part 578 in HUD's regulations in title 24 of the Code of Federal Regulations. Section 578.17 addresses the calculation of the PPRN.

months, including payments for arrears. The 12-month period is separate for each activity, so a household could receive a cumulative amount of 12 months of both rent and utility assistance. This 12-month time period was established as a reasonable period of time to stabilize individuals and families at risk of homelessness. Following the 12-month period of assistance, program participants who still need assistance may qualify for rental assistance for transitional or permanent rental housing.

Relocation Assistance (§ 579.204)

Section 579.204 provides that security deposits, rent for the first month at a new location, and relocation assistance are costs eligible for funding. Relocation assistance under § 579.204 differs from moving services under § 579.222(b)(12) because relocation assistance allows funds to be used to move a participant out of the county for employment, education, or family reunification purposes, whereas moving services are limited to moving costs of moves within the rural county.

The intent of this activity is not to provide assistance to recipients to encourage persons to move out of a county. Instead, HUD recognizes that many of these communities lack job opportunities and other resources that would otherwise enable eligible program participants to improve their ability to afford stable housing. Accordingly, recipients must also ensure that, upon relocation, program participants have access to supportive services that may be necessary to continue the program participant's movement towards self-sufficiency. Recipients may assist program participants with expenses associated with moving outside of the county when one of the following criteria applies: Employment has been secured, an educational opportunity has been offered, or the program participant would be able to reunite with family members, but the program participant lacks the resources to move on their own. Recipients may not provide relocation assistance unless employment, an educational opportunity, or family reunification can be verified.

Short-Term Emergency Lodging (§ 579.206)

Section 579.206 provides that recipients may provide short-term emergency lodging to program participants in either hotels, motels, or an existing emergency shelter. HUD defines ''short-term'' for this activity as 3 months to maintain consistency with the other homeless assistance and homeless prevention programs under this title of the McKinney-Vento Act. However, recipients may extend this assistance on a month-to-month basis when, upon re-assessment at the end of the 3 month period, it is determined that additional assistance is required because there are no other housing resources available to the program participant, and the program participant is still considered either at risk of homelessness or in a worst housing situation. When a program participant is first assessed, if it is determined that more long-term housing would be necessary, a recipient must make all efforts to secure permanent housing before serving the program participant under this activity.

HUD notes that under no circumstances should program funds be used to replace or substitute existing resources of a facility to pay for beds that are already in place. Instead, funds under this activity may be used only to increase the capacity of the shelter by adding new, temporary beds that will be removed once the household being served leaves. It should also be noted that program funds should only be used to increase the number of beds in an existing shelter when doing so does not violate any local codes or laws.

Section 579.206 provides an exception to the limit on duration, and program participants may request that HUD apply the exception. Specifically, § 579.206 provides that an exception to the limit on duration may be available when there are more than 25 percent of program participants receiving short-term emergency lodging beyond the 3 month limit, but the recipient must submit a request to HUD apply the exception. The request must describe the conditions that justify an exception, including an assessment of alternative housing sources and the particular needs of the program participants.

New Construction (§ 579.208)

Section 491(b)(1)(D) of the McKinney-Vento Act also authorizes the new construction of housing units to provide transitional or permanent housing as an eligible activity. New construction is available to assist participants that are either homeless or at risk of homelessness, but is not available to those in the worst housing situations. Under § 579.208, recipients are required to demonstrate that costs of new construction of a building or structure are substantially less than the costs of rehabilitation of an existing building or structure or to demonstrate that there is a lack of available appropriate units that could be rehabilitated at a cost less than new construction. The intent of this requirement is to ensure that funds are used in an effective manner and are not expended on new construction unless the recipient demonstrates that doing so is financially feasible.

Eligible new construction costs include the site improvement costs, staff and overhead costs, and related reasonable and necessary soft costs such as architectural, engineering, or professional services; permitting; and environmental review requirements under 24 CFR part 50. The eligible costs are intended to cover the costs for planning the new construction, as well as the actual costs of construction. However, new construction funds may not be used to fund leased property.

Acquisition (§ 579.210)

Section 579.210 provides that funds may be used to pay up to 100 percent of the costs of acquisition of real property to provide supportive services, or transitional or permanent rental housing, for program participants who are homeless or at risk of homelessness, but is not available to those in the worst housing situations. Eligible costs include staff and overhead costs and related reasonable and necessary soft costs, such as architectural, engineering, or professional services; permitting; and environmental review requirement costs under 24 CFR part 50.

Rehabilitation (§ 579.212)

Section 579.212 provides that funds may be used to pay up to 100 percent of the costs of rehabilitation of structures to provide supportive services or transitional or permanent rental housing for program participants who are homeless or at risk of homelessness, but is not available to those in the worst housing situations. Eligible costs include, cost-effective energy measure installation, State and local government health and safety standard compliance costs, staff and overhead costs, and related reasonable and necessary soft costs, but exclude rehabilitation costs on leased property.

Leasing (§ 579.214)

Section 579.214 provides that funds may be used to pay for 100 percent of the costs of leasing a property, or portions of a property, to provide individuals and families who are homeless or at risk of homelessness with transitional housing, permanent housing, or supportive services. While recipients generally may not use funds to lease units or structures owned by the recipient, subrecipients, parent organizations, related organizations, or partnerships in which the recipient is a

member, HUD may grant an exception if the recipient demonstrates that doing so is in the best interest of the program, that leasing charges to be paid by grant funds are reasonable, and that it has written policies and procedures in place governing recusals and disputes between landlords and tenants.

Funds used for leasing may be used to pay rent reasonable in relation to rent being charged for comparable space in the area, not to exceed HUD-determined fair market rents; utilities such as gas, electricity, and water; security deposits; and an advance of first and last months' rents.

In addition, recipients and subrecipients are not required to make program participants pay an occupancy charge. If occupancy charges are imposed, the amounts charged may not exceed the highest of 30 percent of a family's monthly adjusted income, 10 percent of a family's monthly income, or the portion of welfare assistance from a public agency specifically designated for housing costs. Consistent with the Continuum of Care program, this proposed rule provides that income must be calculated in accordance with HUD's regulations in 24 CFR 5.609, which address annual income, and 24 CFR 5.611(a), which address adjusted income. Section 579.214 specifies that recipients and subrecipients may not charge program fees for housing or supportive services in excess of the income limitations set forth in the aforementioned regulations. Further, recipients must avoid leasing buildings that do not comply with Federal physical accessibility requirements.

Rental Assistance (§ 579.216)

Section 579.216 provides that rental assistance is an eligible cost for permanent and transitional housing, and this rule clarifies that short-term, medium-term, and long-term rental assistance are eligible costs under the RHSP. Short-term includes rental assistance up to 3 months; medium-term includes rental assistance for 3 to 24 months; and long-term includes rental assistance for longer than 24 months of rent. The durations for short-term, medium-term, and long-term rental assistance were established to maintain consistency with the other homeless assistance and homeless prevention programs under this title of the McKinney-Vento Act. This section also provides that rental assistance may include tenant-based or project-based rental assistance. Eligible rental assistance costs also include security deposits, in an amount not to exceed 2 months of rent, and rental application fees.

Tenant-based rental assistance allows the program participant (individuals or families) to choose rental housing of an appropriate size in which to reside. Section 579.216 would limit this retention to within the county boundaries. Under § 579.216, the only exception to the limitation for retention of tenant-based rental assistance is for program participants who are victims of domestic violence, dating violence, sexual assault, or stalking. These participants must have complied with all other obligations of the program and reasonably believe that he or she is imminently threatened by harm from further violence if he or she remains in the assisted dwelling unit.

In § 579.216, HUD clarifies that the imminent threat of harm must be from further domestic violence, dating violence, sexual assault, or stalking, which would include threats from a third party, such as a friend or family member of the perpetrator of the violence. HUD would require that the program participant provide appropriate documentation of the original incident of domestic violence, dating violence, sexual assault, or stalking, and any evidence of the current imminent threat of harm. Examples of appropriate documentation of the original incident of domestic violence, dating violence, sexual assault, or stalking include written observation by the housing or service provider; a letter or other documentation from a victim services provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom the victim has sought assistance; medical or dental records; court records; or law enforcement records.

Documentation of reasonable belief of further domestic violence, dating violence, sexual assault, or stalking may be done by written observation by the housing or service provider; a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom the victim has requested assistance; medical or dental records; current restraining order, recent court order or other court records; or law enforcement reports or records. The housing or service provider may also consider other documentation such as emails, voicemails, text messages, social media posts, and other communication from the perpetrator. Because of the particular safety concerns surrounding victims of domestic violence, the proposed rule would provide that acceptable evidence for both the original violence and the reasonable belief include an oral statement. This oral statement does not need to be verified, but it must be documented by a written certification by the individual or head of household.

This provision is specific to victims of domestic violence, dating violence, sexual assault, and stalking who are receiving tenant-based rental assistance in permanent housing. This proposed rule contains other policies for moving program participants receiving any type of assistance under this rule, including tenant-based rental assistance, within the rural county required by the provider to coordinate service delivery. Moving program participants outside of the geographic area where providers can coordinate service delivery is administratively difficult for providers and makes it difficult to monitor that program participants have access to, and are receiving, appropriate supportive services; therefore, moves outside of the geographic area where the provider can effectively deliver and monitor service coordination are allowed only in exceptional circumstances. HUD has established these provisions to provide an exception and to address the challenges that are associated with such a move.

Project-based rental assistance provides grants for rental assistance to recipients who will make payments to the owner of an existing structure, where the owner agrees to lease subsidized units to program participants.

Under the proposed RHSP regulations, HUD would only provide rental assistance for a unit if the rent is reasonable in relation to rents being charged for comparable unassisted units, considering the location, size, type, quality, amenities, facilities, management, and maintenance of each unit, and not exceeding rents currently charged by the same owner for comparable unassisted units.

Section 579.216 specifies that if a unit that is assisted under this program is vacated prior to the expiration of a lease, assistance for the unit may continue for a maximum period of 30 days from the end of the month in which the unit is vacated unless the unit is occupied by another person in the meantime. Assistance may resume once the unit is occupied by an eligible program participant. To be consistent with the Continuum of Care program rule and longstanding policy with the Shelter Plus Care program, in particular, periods of stay in institutions that are less than a period of 90 days for each occurrence are not considered vacancies for purposes of this section of the rule. This section retains available rental

assistance for program participants who enter institutions for short periods of time.

Operating Costs (§ 579.218)

Under § 579.218, recipients may use grant funds to pay the costs of day-to-day operation of transitional and permanent rental housing. Recipients may not use grant funds to pay for the operating costs of a project that is receiving funds under this program for rental assistance at the same time. Grant funds may not be used for operating costs of emergency shelters and of supportive service-only facilities because operating costs for such facilities are not authorized for this program under the McKinney-Vento Act, as amended by the HEARTH Act.

Rehabilitation and Repairs of Participant-Owned Housing (§ 579.220)

Section 491(b)(1)(I) of the McKinney-Vento Act provides that funds may be used for rehabilitation and repairs to make premises habitable. As rehabilitation and operating costs for rental housing are already eligible under other activities, § 579.220 clarifies that this activity is intended to assist those eligible individuals and families who are in the worst housing situations, which is defined as housing that has serious health and safety defects and has at least one major system that has failed or is failing, including: structural support, roofing, cladding, weatherproofing, plumbing, electrical, heating, ventilation, and air conditioning. Eligible costs include costs of repairing, rehabilitating, or replacing major systems that have failed or are failing, and such repairs must meet all applicable laws, ordinances, and codes for the county.

HUD recognizes the importance of preserving existing housing stock as well as increasing new permanent housing opportunities. In many rural counties, the existing housing stock is old and often uninhabitable. To ensure that this activity is only used to assist households living in the worst housing situations, as defined, § 579.220 further clarifies that in order to receive assistance through this activity, a household must have a total household income at 50 percent area median income (AMI) or below. A household must also own the housing and must reside in it as their primary place of residence.

Section 579.220 also specifies that a program participant that receives assistance under this activity would be required to enter into a written repayment agreement with the recipients or subrecipient that requires the program participant to remain in the residence for a period of no less than 3 years. Should the program participants move prior to the 3-year period, they may be required to repay the amount of grant funds used for the improvements, in accordance with the repayment agreement. The purpose of this requirement is to ensure that grant funds are not misused and that funds used for this activity will benefit program participants for a period of at least 3 years.

Supportive Services (§ 579.222)

Section 491(b)(1)(J) of the McKinney-Vento Act allows for funds to be used to pay for the development and delivery of comprehensive and coordinated supportive services that use and supplement, as needed, community networks of services. Under § 579.222, the supportive service activities listed in the statute are clarified, defined, and in some cases, consolidated where appropriate. All eligible costs are eligible to the same extent for program participants who are unaccompanied homeless youth, persons living with Human Immunodeficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS) (HIV/AIDS), and victims of domestic violence, dating violence, sexual assault, or stalking, as they are for other program participants. The supportive service activities named as eligible costs in the proposed rule are budgeting, case management, child care, education services, emergency food and clothing, employment assistance and job training, health related services, housing search and counseling services, referrals to legal services, life skills training, mental health services, moving services, outreach services, substance abuse treatment services, and transportation. Specifically, the following supportive service activities do not appear in the proposed RHSP regulations in the supportive services section: victim services, entitlement assistance, and referrals to veterans' services. Each of these activities is covered under the case management activity and therefore does not need to be listed separately. It should also be noted, that the eligible costs of each supportive service activity are not all-inclusive. Instead, under § 579.222, the activities are intended to be examples of the types of services that will be eligible. Further guidance on these costs will be issued in notices or guidance materials.

Use of Federal Inventory Property (§ 579.224)

Section 579.224 addresses using former Federally-owned property, obtained through two property disposition programs, in connection with this program. Title V of the McKinney-Vento Act makes excess and surplus Federal real property available to State and local governments and private nonprofit organizations at no cost for use to assist the homeless. The Single Family Property Disposition Program (section 204(g) of the National Housing Act, 12 U.S.C. 1710(g)) makes properties acquired by the Federal Housing Administration (FHA) through foreclosure of an insured or Secretary-held mortgage or loan under the National Housing Act available to government entities and nonprofit organizations at a discount through a lottery system. Section 579.224 would make eligible costs that HUD has determined are not covered in other sections of subpart C and are unique to using property formerly owned by the Federal Government and made available through one of the two programs listed in the McKinney-Vento Act.

Specific Solicitation of Comment. HUD is especially interested in receiving comments from entities with experience developing property obtained through these disposition programs as to other unique costs encountered when using this former Federally owned property to assist homeless persons.

Capacity Building (§ 579.226)

Section 491(b)(2) of the McKinney-Vento Act allows for up to 20 percent of grant funds to be used to pay for capacity building activities. Under § 579.226, capacity building activities are defined as those activities that assist recipient personnel to maintain or improve the skills necessary to strengthen the capability of recipients to deliver housing and supportive services to program participants and to administer grants under this program. Eligible capacity building activities may include costs such as salaries, wages, other employee compensation and benefits, employee education, training, travel, and staff retention.

Data Collection Costs (§ 579.228)

Section 579.228 proposes the data collection requirements of the RHSP. The data collection system can be through an existing Homeless Management Information System (HMIS) or a comparable data collection system. The data collection system, whether an HMIS or a comparable data collection system, must still conform with HUD's data collection requirements as established by notice. Data collection costs of participating in a HMIS are eligible, but a recipient is not required to create and implement a

new HMIS. However, recipients will be required to choose an existing HMIS, in a CoC in the recipient's State that voluntarily accepts the recipient's participation in which to participate and contribute data. Where a recipient or subrecipient cannot obtain approval from a CoC to contribute data to an existing HMIS, a recipient or subrecipient may use program funds to pay the cost of establishing their own comparable data collection system that meets minimum standards established by HUD in Notice. Eligible costs of contributing data to an HMIS include purchasing or leasing computer hardware, purchasing software, purchasing equipment, obtaining technical support, leasing office space, and paying other costs of operating HMIS, including salaries, travel, and participation fees. If a recipient or subrecipient elects to use HMIS, victim service providers will not enter their data into the HMIS but must still collect data in a comparable database and be able to provide the aggregated data to the recipient for the purpose of reporting.

In addition, under § 579.228, during the grant period, all recipients must participate in or plan for and conduct a point-in-time count of sheltered and unsheltered homeless persons within the county within the last 10 days of January, or as otherwise determined by HUD. Recipients may choose to participate with an adjacent Continuum of Care for their point-in-time process in order to take advantage of an adjacent Continuum of Care's planning and evaluation process. Recipients must also conduct an annual housing inventory survey and report their data in accordance with a manner prescribed by HUD, during the grant period. Actual costs of conducting the count and the survey are allowable administrative costs. Recipients may also choose to participate with an adjacent Continuum of Care for their housing inventory count process in order to take advantage of an adjacent Continuum of Care's planning and evaluation process. If recipients are participating in an adjacent Continuum of Care's point-in-time count and the recipient wants to participate with a Continuum of Care to conduct its housing inventory count, it must participate with the same Continuum of Care for both the point-in-time and the housing inventory count.

Administrative Costs (§ 579.230)

Section 579.230 authorizes the use of funds for administrative costs. Recipients will be permitted to use up to 7.5 percent of funds awarded for administrative costs. If the recipient is using a subrecipient to operate a project, the recipient must provide at least 50 percent of administrative funds to the subrecipient(s). It is HUD's experience that subrecipients historically incur costs at the same rate as recipients and therefore should receive funds. Administrative costs are costs that are associated with carrying out the grant, such as accounting for the use of funds, preparing an abbreviated consolidated plan, and preparing reports related to the grant. These are not capacity building activities as these costs are specific to administering the grant. HUD has determined that the 7.5 percent cap is reasonable because it ensures that recipients have some flexibility to use grant funds to pay for costs incurred as a result of administering a grant under this program.

Indirect Costs (§ 579.232)

Section 579.232 provides that program funds may be used to pay indirect costs in accordance with Office of Management and Budget (OMB) Circulars A–87 or A–122, as applicable. These circulars are referred to as grant management circulars. Circular A–87 is entitled ''Cost Principles for States, Local, and Indian Tribal Governments.'' Circular A–122 is entitled ''Cost Principles for Non-Profit Organizations.'' The provisions of these cost principle circulars are codified in the government wide regulations found at 2 CFR part 225, and 2 CFR part 230, respectively.

Grant Selection and Award Process (Subpart D)

Subpart D sets forth the selection criteria that HUD will use to make awards under this program. It also outlines the funding priorities that HUD will give when making awards, and describes the grant award process.

Selection Criteria (§ 579.300)

Section 579.300 provides that HUD will award funds to recipients through a national competition based on seven selection criteria, including the participation of potential program beneficiaries of the grant in assessing the need for, and importance of, the grant in the county; the degree to which the grant addresses the worst housing situations present in the county; the degree of collaboration with others in the county to meet the goals described in § 579.1; the performance of the applicant in improving housing situations, taking account of the severity of the barriers of individuals and families served by the applicant; for applicants that have previously received funding under this part, the extent in which the county has successfully demonstrated high levels of performance since such funding began, as determined by HUD; the need for such funds, as determined by the formula established under section 427(b)(2) of the McKinney-Vento Act; and any other relevant criteria as determined by HUD.

Selection Priorities (§ 579.302)

HUD will make selection of awards according to section 491(c) of the McKinney-Vento Act. The McKinney-Vento Act sets forth that not less than 50 percent of the total funds awarded shall be for recipients serving communities with populations of less than 10,000. As discussed earlier in this preamble, the RHSP regulations define ''rural area'' and ''rural community'' as a ''county.'' Therefore, the total population of an eligible county would have to be less than 10,000 in order to benefit from this funding priority. Further, within this set-aside, priority must be given to recipients serving counties with populations of less than 5,000. An eligible county would need to have a total population of less than 5,000 in order to benefit from this funding priority.

The McKinney-Vento Act also requires that priority be given to eligible recipients serving communities not currently receiving significant Federal assistance under the McKinney-Vento Act. Section 579.302 interprets this as giving priority to eligible counties that are not currently receiving *any* grants under 24 CFR part 576 (the regulations for the Emergency Solutions Grant program) and part 578 (the regulations for the Continuum of Care program). This is consistent with HUD's desire to use this program to reach those rural counties that may not be receiving assistance under the Emergency Solutions Grants program and the Continuum of Care program.

Finally, the McKinney-Vento Act limits the total percentage of program funds awarded in a fiscal year to recipients within a single State to 10 percent of the total funds awarded under this program.

Grant Award Process (§ 579.304)

Section 579.304 provides that a recipient of a conditionally awarded grant must satisfy all requirements for obligation of funds or HUD will withdraw its offer of the award. However, HUD may execute a grant agreement before the recipient meets all conditions precedent but the funds may only be spent on capacity building, supportive services to sites not operated

by the recipient or subrecipient, or HMIS eligible costs, until the conditions are met. If an applicant expends funds for capacity building, supportive services to sites not operated by the recipient or subrecipient, or HMIS and fails to subsequently meet the conditions precedent for the other activities, HUD may recapture the applicant's grant funds. The recipient's requirements for obligation of funds are satisfied through the initial provision of housing and services to eligible program participants and/or executing a contract with a subrecipient to provide housing and services under the grant.

Consistent with section 491(l) of the McKinney-Vento Act, recipients will have 2 years to obligate the grant funds. A recipient's grant funds awarded in a recipient's fiscal year that remain unobligated at the end of the recipient's fiscal year shall remain available to the recipient, for the purposes for which the funds were awarded, for the recipient's next fiscal year. All grant funds must be obligated by the recipient by the end of the recipient's second fiscal year. Any funds that remain unobligated after the recipient's second fiscal year will be recaptured by HUD. All funds must be spent by recipients by the end of the grant term. A conditional grant must document match requirements, comply with environmental review under § 579.106, document financial feasibility, and correct any and all issues and conditions that may have been attached to the grant award. Recipients of grant funds must comply with the timeliness standards established in § 579.414.

HUD would require the recipient to enter into the agreement described in § 579.304. Under this agreement, the grant recipient must agree to ensure that the operation of the project will be in accordance with the McKinney-Vento Act and the requirements of this program. In addition, the grant recipient must monitor and report the progress of the grant to HUD. The grant recipient must comply with requirements of section 491(d)(6) of the McKinney-Vento Act, maintain confidentiality of program participants, monitor compliance, and submit performance reports to HUD annually.

Program Requirements (Subpart E)

Subpart E sets forth the program requirements applicable to RHSP. All recipients of RHSP funding must comply with the program regulations under this subpart and the requirements of the NOFA issued annually by HUD.

Assessment of Program Participant Eligibility and Needs (§ 579.400)

Section 579.400 would require recipients and subrecipients to conduct an initial evaluation to determine a program participant's eligibility for participation in the program, and to determine the amount and types of assistance available to the participant. HUD proposes to adopt this requirement to ensure that recipients and subrecipients only provide assistance to eligible families. In order to ensure fair and consistent standards for determining the amount and types of assistance made available to program participants, § 579.400 would also require recipients to have written standards for the provision of assistance, which must address any limits on the amount of assistance that may be received by a program participant, in addition to standards for determining and prioritizing assistance to eligible individuals and families.

To assess the annual income of the program participants, HUD proposes that recipients follow the standards outlined in 24 CFR 5.609, with one exception. HUD will not include in its annual income determination the value of a program participant's principal residence when providing rehabilitation or repair for that housing. This exception would allow HUD to afford maximum flexibility for rural communities in addressing homelessness and worst case housing needs in underserved communities. The RHSP is unique because it allows funds to be used to repair homes. It would not be logical to count assets, including housing, when that is the very reason the participant is requesting the funding.

Matching (§ 579.402)

Section 430 of the McKinney-Vento Act imposes a minimum of 25 percent cash or in-kind match on all eligible funding costs except leasing. Section 579.402 would also exclude data collection and administrative costs from this requirement. For in-kind match, the government-wide grant requirements of HUD's regulations in 24 CFR 84.23 (for nonprofit organizations) and 85.24 (for governments) apply. The 25 percent match requirement is calculated on the total grant amount. All match funds must be spent on eligible activities under this program. Match funds from cash resources must be provided to the project by the recipient, the Federal government, State and local government, or private resources. A recipient may use funds from any source, including any other Federal sources (excluding RHSP funding), as well as State, local, and private sources, provided that funds from the source are not statutorily prohibited to be used as a match. For match funds from in-kind contributions, before grant execution, services to be provided by a third party must be documented by a memorandum of understanding (MOU) or a memorandum of agreement (MOA) between the recipient or subrecipient and the third party who will provide the services.

General Operation (§ 579.404)

Section 579.404 would provide that recipients of grant funds must provide housing or services that comply with all applicable State and local housing codes, Federal physical accessibility requirements, licensing requirements, and any other requirements in the project's jurisdiction. For leasing, rental assistance, and operating costs, if a unit fails the housing quality standards (HQS) inspection, the owner must correct all failed items within 30 days from the date of the lease agreement to receive assistance under this part. In addition, § 579.404 would clarify that recipients must abide by housing quality standards and suitable dwelling standards. Recipients must also assess supportive services on an ongoing basis and abide by confidentiality standards.

Calculating Occupancy Charges and Rent (§ 579.406)

Section 579.406 would provide that occupancy charges collected from program participants are considered program income under the RHSP regulations and must be retained by the recipient and added to funds committed by HUD to fulfill project and program objectives under this part. Additionally, the amount of rental assistance awarded will be based on the number and size of units proposed by the applicant to be assisted over the grant period.

Limitation on Transitional Housing (§ 579.408)

Section 579.408 specifies that program participants may remain in transitional housing for a period longer than 24 months if permanent housing cannot be located, or if the participant requires additional time to prepare for independent living. This would allow program participants in these circumstances to continue to receive assistance while they seek permanent housing. HUD reserves the authority to discontinue assistance to transitional housing projects where more than half of program participants remain in a project for a period longer than 24 months.

Term of Commitment; Repayment of Grants; Prevention of Undue Benefits (§ 579.410)

Section 579.410 would require that recipients and subrecipients receiving grant funds for acquisition, rehabilitation, or new construction for rental housing or a facility must operate the housing, or provide supportive services in accordance with programmatic requirements, for a term of at least 15 years. When applying for funds, applicants seeking funding for acquisition, rehabilitation, or new construction of permanent housing must also provide a sustainability plan that outlines how a proposed project will continue to operate after the expiration of the grant term. Section 579.410 would also establish repayment requirements when recipients fail to comply with these requirements.

While grant terms under this program will expire, HUD has determined that it is in the best interest of the program to ensure that recipients develop a plan to continue to operate an assisted project in accordance with the requirements of this part for a period of time beyond the expiration of a grant period. Where funds are used for acquisition, rehabilitation, or new construction, HUD expects recipients to ensure the continued operation or support of projects, for the benefit of program participants, beyond the grant period.

Displacement, Relocation, and Acquisition (§ 579.412)

Section 579.412 would provide that recipients and subrecipients must assure that they have taken all reasonable steps to minimize the displacement of persons as a result of housing assisted under this part. This section provides a definition of ''displaced person'' and provides that a displaced person must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601–4655) and implementing regulations at 49 CFR part 24. This section further provides that a displaced person must be advised of his or her rights under the Fair Housing Act and, if the comparable replacement dwelling used to establish the amount of replacement housing payment to be provided to a minority person is located in an area of minority concentration, the minority person must be given, if possible, referrals to decent, safe, and sanitary replacement dwellings not located in such areas that are within their financial means. (See 49 CFR 24.205(c)(2)(ii)(D)). This section also addresses the process of initiating negotiations where the displacement is a result of privately undertaken rehabilitation, demolition, or acquisition of real property. This section also provides that a person may appeal a determination by the recipient or subrecipient regarding whether a person qualifies as a displaced person.

Timeliness Standards (§ 579.414)

Under § 579.414, recipients would be required to adhere to all timeliness standards pertaining to obligation of funds. All funds must be obligated by the end of a recipient's second fiscal year. HUD reserves the authority to withdraw grant awards if an applicant fails to correct all issues, or comply with conditions attached to an award, within a certain period of time.

Limitations on Use of Funds (§ 579.416)

Section 579.416 would provide that no assistance provided under the RHSP or by any State or local government funds used to supplement this assistance will be awarded for, or may be used to replace State or local funds previously used, or designated for use, to assist persons who are homeless, at risk of homelessness, or in the worst housing situations. This limitation is consistent with the Continuum of Care program and prevents RHSP funds from supplanting existing funds. Additionally, this regulatory section would provide that recipients and subrecipients may not charge fees to program participants.

The limitation on the use of funds also addresses limitation on uses where religious activities may be concerned. It is HUD's position that faith-based organizations are able to compete for HUD funds and participate in HUD programs on an equal footing with other organizations; that no group of applicants completing for HUD funds should be subject, as a matter of discretion, to greater or fewer requirements than other organizations solely because of their religious character or affiliation, or, alternatively, the absence of religious character or affiliation. HUD's general principles regarding the equal participation of such organizations in its programs are codified at 24 CFR 5.109. Program specific requirements governing faith-based activities are codified in the regulations for the individual HUD programs. (See, for example, 24 CFR 574.300(c), 24 CFR 582.115(c), 24 CFR 583.150(b).)

HUD's equal participation regulations were prompted by Executive Order 13279, Equal Protection of the Laws for Faith-Based and Community Organizations, issued by President Bush on December 12, 2002, and published in the **Federal Register** on December 16, 2002 (67 FR 77141). Executive Order 13279 set forth principles and policymaking criteria to guide Federal agencies in ensuring the equal protection of the laws for faith-based and community organizations. Executive Order 13279 was amended by Executive Order 13559 (Fundamental Principles and Policymaking Criteria for Partnerships With Faith-Based and Other Neighborhood Organizations), issued by President Obama on November 17, 2010, and published in the **Federal Register** on November 22, 2010 (75 FR 71319).

Executive Order 13559 expands on the equal participation principles provided in Executive Order 13279 to strengthen the capacity of faith-based and other neighborhood organizations to deliver services effectively and ensure the equal treatment of program beneficiaries. Executive Order 13559 reiterates a key principle underlying participation of faith-based organizations in federally funded activities and that is that faith-based organizations be eligible to compete for Federal financial assistance used to support social service programs and to participate fully in social service programs supported with Federal financial assistance without impairing their independence, autonomy, expression outside the programs in question, or religious character.

With respect to program beneficiaries, the Executive Order states that organizations, in providing services supported in whole or in part with Federal financial assistance, and in their outreach activities related to such services, should not be allowed to discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice. The Executive Order directs that organizations that engage in explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization) must perform such activities and offer such services outside of programs that are supported with direct Federal financial assistance (including through prime awards or subawards), separately in time or location from any such programs or services supported with direct Federal financial assistance, and participation in any such explicitly religious activities must be voluntary for the beneficiaries of the social service program supported with such Federal

financial assistance. For purposes of greater clarity and comprehensibility, the Executive Order uses the term ''explicitly religious'' in lieu of ''inherently religious.'' The Executive Order further directs that if a beneficiary or prospective beneficiary of a social service program supported by Federal financial assistance objects to the religious character of an organization that provides services under the program, that organization, within a reasonable time after the date of the objection, shall refer the beneficiary to an alternative provider.

Executive Order 13559 provides for the establishment of an Interagency Working Group on Faith-Based and Other Neighborhood Partnerships (Working Group) to review and evaluate existing regulations, guidance documents, and policies, and directs the OMB to issue guidance to agencies on uniform implementation following receipt of the Working Group's report. On April 27, 2012, the Working Group issued its report, recommending a model set of regulations and guidance for agencies to adopt.

HUD intends to wait for OMB guidance before initiating any rulemaking directed to broader changes to HUD's existing faith-based regulations to ensure consistency with faith-based regulations of other Federal agencies. However, in this rule, HUD has proposed revisions to its regulatory provisions governing faith-based activities to incorporate the principles of Executive Order 13559 pertaining to equal treatment of program beneficiaries and to adopt terminology, such as ''explicitly religious'' and ''overt religious content,'' that offers greater clarity to the limitations placed on faith-based organizations when using Federal funds for their supportive services.

Executive Order 13559 also provides that if a beneficiary or prospective beneficiary of a social service program supported by Federal financial assistance objects to the religious character of an organization that provides services under the program, that organization, shall, within a reasonable time after the date of the objection, refer the beneficiary to an alternative provider. HUD has proposed language in the rule to reflect the option of referral to an alternative provider. As to how this option specifically will be implemented in rural America, HUD anticipates that based on public comment, as well as forthcoming OMB guidance and the recommendations of the Working Group, HUD will be able to fully address and implement this provision at the final rule stage.

Termination of Assistance to Participants (§ 579.418)

Section 579.418 would provide that a recipient may terminate assistance to a program participant who violates program requirements or conditions of occupancy. The recipient must provide a formal process that affords program participants due process of law. As recipients develop their formal due process policies they should consider the specific conditions and needs of the project's target subpopulation and develop policies and procedures accordingly. Recipients may resume assistance to a participant whose assistance has been terminated.

For example, recipients that target persons fleeing or attempting to flee domestic violence, dating violence, sexual assault, or stalking should consider the unique needs of this subpopulation, including safety risks that might arise as a result of terminating assistance and what violations are serious enough to warrant such risks. Additionally, recipients should consider including in the formal due process policies a requirement that recipients make the appropriate referrals or take other measures to ensure the safety of the program participants who are being terminated from the program.

Recipients that are providing permanent housing for hard-to-house populations of homeless persons (e.g., persons with multiple disabling conditions) must exercise judgment and examine all circumstances in determining whether termination is appropriate. Under § 579.418, HUD has determined that a participant's assistance should be terminated only in the most severe cases.

Conflicts of Interest (§ 579.420)

Section 579.420 addresses organizational and individual conflicts of interest. With respect to organizational conflicts of interest, this section would provide that the provision of any type or amount of assistance under the RHSP may not be conditioned on an individual's or family's acceptance or occupancy of housing owned by the recipient, subrecipient, or a parent or subsidiary of the subrecipient. This section further provides that no subrecipient, or parent or subsidiary of a subrecipient, may, with respect to individuals or families occupying housing that the subrecipient, or any parent or subsidiary of the subrecipient, owns, carry out the intake assessment. With respect to individual conflicts of interest, this section provides that for the procurement of goods and services, the recipient and its subrecipients must comply with the codes of conduct and conflict of interest requirements under 24 CFR 85.36 (for governments) and 24 CFR 84.42 (for private nonprofit organizations), and sets out the requirements for all other transactions and activities.

Program Income (§ 579.422)

Section 579.422 defines program income as income received by the recipient or subrecipient directly from a grant-supported activity or earned as a result of the grant agreement. Program income would be allowable to further eligible project and RHSP activities.

Applicability of Other Federal Requirements (§ 579.424)

Section 579.424 would provide the cross-cutting Federal requirements to which recipients and subrecipients of RHSP funding must comply. These requirements would include compliance with such Federal requirements as the Coastal Barriers Resources Act, applicable OMB Circulars, Lead-Based Paint regulations, audit requirements, and nondiscrimination and civil rights requirements. This section also would provide that all recipients of RHSP funds must abide by the limitation of use of the funds, such as use of funds for required religious activities.

Grant Administration (Subpart F)

Data Collection Requirements (§ 579.500)

Section 579.500 would provide that recipients of RHSP funding must collect and report data using methods used by HUD. These methods shall include, at a minimum, participation in an HMIS, a point-in-time count, and an annual housing inventory count. These data collection methods are not required by the McKinney-Vento Act, however they have proven successful in HUD's other homeless assistance programs. Although RHSP is not exclusively targeting homeless persons, these tools can be used to count all program participants. HUD will issue guidance for recipients on how to implement these methods in their counties.

Technical Assistance (§ 579.502)

The purpose of technical assistance provided under the RHSP is to increase the effectiveness with which eligible recipients develop projects that effectively assist program participants; improve their capacity to prepare funding applications; and gain access to other Federal resources that may be used to assist individuals and families who are homeless, at risk of homelessness, or are in the worst

housing situations in rural areas. As appropriate, HUD will provide technical assistance through a variety of methods to assist recipients with complying with requirements under this program.

Recordkeeping Requirements (§ 579.504)

Section 579.504 would require each recipient receiving RHSP funds to provide timely reports to HUD. Each recipient would be required to adhere to recordkeeping requirements outlined under § 579.504. These requirements include maintaining financial records, documenting eligibility status, and maintaining records concerning other Federal requirements.

Grant Changes (§ 579.506)

Section 579.506 would provide that recipients of RHSP funds may not make any significant changes to the use of the funds without prior HUD approval, evidenced by a grant amendment signed by HUD and the recipient. Significant changes would include a shift in a single year of more than ten percent of the total amount awarded under the grant for one approved eligible activity to another activity. Approval of shifting funds between activities and changing subpopulations must be necessary to better serve eligible persons within the geographic area and ensure that the priorities established under the NOFA in which the grant was originally awarded continue to be met. In addition, to be approved, a change to the grant agreement must also be consistent with the recipient's HUD-approved consolidated plan or abbreviated consolidated plan. If an amendment would adversely impact the score the application received on any selection criterion used in the year in which the grant was awarded, HUD will disapprove the amendment. Any other changes to an approved grant must be fully documented in the recipient's or subrecipient's records.

Enforcement (§ 579.508)

Through § 579.50, HUD proposes to adopt enforcement procedures and an array of remedial actions and sanctions that draw from the requirements at 24 CFR 85.43 (Enforcement) and other HUD program regulations. HUD believes that these procedures afford recipients and subrecipients due process while also protecting against the misuse of Federal funds.

Closeout (§ 579.510)

Section 579.510 would provide that grants must be closed out at the end of their grant term. This regulatory section specifies the actions that must be taken after the closeout, including recipient submission of financial, final performance, or other reports required by HUD within 90 days of the end of the grant term. HUD will prepare a closeout agreement in consultation with the recipient that will govern the terms of the closeout. Any unused funds must be deobligated and returned to HUD.

III. Findings and Certifications

Regulatory Review—Executive Orders 12866 and 13563

Executive Orders 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). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

Under Executive Order 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant and, therefore, subject to review by the OMB in accordance with the requirements of the order. This rule was determined to be a ''significant regulatory action'' as defined in section 3(f) of the Executive Order (although not an economically significant regulatory action, as provided under section 3(f)(1) of the Executive Order).

As has been discussed in this preamble, this rule proposes to establish the regulations for the Rural Housing Stability Assistance program. These proposed regulations are intended to work towards the goal of eliminating homelessness in rural communities, by providing the requirements for the new Rural Housing Stability Assistance program, which focuses on improving homeless assistance and prevention in rural areas. The funds awarded under the program would go towards rehousing and improving the housing situations of individuals and families who are homeless or in the worst housing situations in the geographic area, stabilizing the housing of individuals and families who are at risk of becoming homeless, and improving the ability of the lowest-income residents of the community to afford stable housing.

In addition to establishing the regulatory framework for the new Rural Housing Stability Assistance program, this rule also proposes to establish a definition for chronically homeless that includes a definition of homeless occasion that HUD believes better targets persons with the longest histories of homelessness and therefore the highest level of need. The definition of homeless occasion also allows for limited resources to be more effectively targeted, and considers stays in institutions of 90 days or less to be part of an episode of homelessness. The goal of ending chronic homelessness is not only a goal of HUD but of the Administration. On April 5, 2012, the U.S. Interagency Council on Homelessness met to review progress and challenges toward the goal of ending chronic homelessness. As reported at that meeting, based on HUD's 2011 Point-in-Time estimates for chronic homelessness, there has a been a 2.4 percent decline in the number of persons experiencing chronic homelessness. The USICH acknowledged that the accuracy of the count is limited by the difficulty of determining chronic homelessness. The USICH report, based on recent research on chronic homelessness in the city of Philadelphia, suggests that between 60 and 70 percent of all persons experiencing chronic homelessness meet the definition via episodes as opposed to being homeless continuously for one year or longer.[2]

Congress appropriated a total of $1,593,000,000 for the Continuum of Care and Rural Housing Stability Assistance programs. (See Consolidated and Further Continuing Appropriations Act, 2012, Public Law 112–55, approved November 18, 2011). As noted earlier, the overwhelming majority of such funding is allocated to the Continuum of Care program as it is an established program.

The RHSP proposed regulations are based on and consistent with the regulations that are familiar to recipients that receive funding under other McKinney-Vento Act programs, thereby limiting burden associated with start-up administration of a new program. As provided under the ''Reporting and Recordkeeping Burden'' below, HUD has estimated the total annual hours for all grantees to comply with the reporting and recordkeeping requirements of the RHSP as 202,677 hours. HUD submits that the limited burden is due to the fact that HUD is providing RHSP requirements with which HUD's homeless assistance grantees are already familiar.

The docket file is available for public inspection in the Regulations Division, Office of the General Counsel, Room

[2] See *http://www.usich.gov/population/chronic/in_focus/.*

10276, 451 7th Street SW., Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the docket file by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the, Federal Relay Service at 800–877–8339 (this is a toll-free number).

Environmental Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for public inspection between the hours of 8 a.m. and 5 p.m., eastern time, weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the FONSI by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This proposed rule does not impose a Federal mandate on any State, local, or tribal government, or on the private sector, within the meaning of UMRA.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) 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. This rule solely addresses the allocation and use of grant funds under the new McKinney-Vento Act Rural Housing Stability Assistance program, as provided by the HEARTH Act amendments to the McKinney-Vento Act. The program is a voluntary grant program. The proposed regulations established by this rule track closely with the statutory requirements, which HUD has no discretion to alter, and, where HUD is provided discretion to establish requirements administratively, HUD has modeled the RHSP regulations on the regulations of the other HEARTH Act programs, to the extent consistent with the statutory requirements governing the Rural Housing Stability Assistance program. By modeling regulations on the regulations of the other HEARTH Act programs, HUD proposed to establish requirements, practices and procedures with which grantees are familiar, thereby minimizing time to become knowledgeable with the RHSP program. Additionally, as is the case with all the HEARTH Act programs, funding is provided under the RHSP for administrative costs, which minimizes impact for all grantees. Given the regulatory framework established for this program, based on statute and other HEARTH Act regulations, HUD has determined that this rule would not have a significant economic impact on a substantial number of small entities.

Notwithstanding HUD's determination that this rule would not have a significant effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either (1) imposes substantial direct compliance costs on State and local governments and is not required by statute, or (2) preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This proposed rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments nor preempt State law within the meaning of the Executive Order.

Paperwork Reduction Act

The information collection requirements contained in this proposed rule have been submitted to the OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

The burden of the information collections in this proposed rule is estimated as follows:

REPORTING AND RECORDKEEPING BURDEN

Information collection	Number of respondents	Response frequency (average)	Total annual responses	Burden hours per response	Total annual hours
§ 579.102(a) Application process	230	1	230	75	17,250
§ 579.104 Subsidy layering	230	1	230	1	230
§ 579.106 Environmental review	135	1	135	2	270
§ 579.208(b) New construction cost comparison	5	1	5	1.0	5
§ 579.214 Signed leases/occupancy agreements	1,302	2	2,604	1.0	2,604
§ 579.216(e) Calculating rental assistance amount	155	16	2,480	0.75	1,860
§ 579.216(f) Calculating rent reasonableness	651	65	42,315	0.75	31,736
§ 579.216(k) Signed leases	155	1	155	1.0	155
§ 579.220 Income determination for rehabilitation and repairs of participant-owned housing	655	65	42,315	0.75	31,736
§ 579.222 Supportive services needs assessment	6,927	1	6,927	1.5	10,390
§ 579.228(c) and (d) Point-in-time and housing inventory count participation	230	1	230	50	11,500
§ 579.304 Grant agreement preparation and execution	50	1	50	5.0	250
§ 579.400(b) Establish written standards for amount and types of assistance	230	1	230	3.0	690

REPORTING AND RECORDKEEPING BURDEN—Continued

Information collection	Number of respondents	Response frequency (average)	Total annual responses	Burden hours per response	Total annual hours
§ 579.402 Documenting match	230	1	230	1.0	230
§ 579.404(a) State and local requirements—housing codes	5	1	5	3.0	15
§ 579.404(b) Property standards	1,302	2	2,604	1.0	2,604
§ 579.406(b) Calculating occupancy charges	456	46	59,317	0.75	44,488
§ 579.406(c) Calculating income	651	65	42,315	0.75	31,736
§ 579.406(d) Calculating resident rent	155	16	2,480	0.75	1,860
§ 579.418 Termination of assistance to participants	30	1	30	4.0	120
§ 579.424(g)(3) Affirmatively marketing housing and supportive services	230	4	920	0.5	460
§ 579.504(b) Documenting homelessness	309	1	309	0.25	77
§ 579.504(c) Documenting at risk of homelessness	4,751	1	4,751	0.25	1,188
§ 579.504(d) Documenting worst housing situation	1,866	1	1,866	0.25	467
§ 579.504(f) Documenting imminent threat of harm	17	1	17	0.5	9
§ 579.504(g) Documenting program participant records	6,927	6	41,562	0.25	10,391
§ 579.504(k) Documenting faith-based activities	346	1	346	1.0	346
§ 579.506 Grant changes	5	1	5	2.0	10
Total					202,677

Total Estimated Burden Hours

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning this 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, for example, permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this rule. Comments must refer to the proposed rule by name and docket number (FR–5573–P–01) and must be sent to: HUD Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Email: *oira_submissions@omb.eop.gov*, Fax: 202–395–6947 and Reports Liaison Officer, Office of the Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7233, Washington, DC 20410–7000.

Interested persons may submit comments regarding the information collection requirements electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *http://www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

List of Subjects in 24 CFR Part 579

Grant programs—housing and community development, rural housing, Homeless, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, HUD proposes to add 24 CFR part 579 to read as follows:

PART 579—RURAL HOUSING STABILITY ASSISTANCE PROGRAM

Subpart A—General

Sec.
579.1 Purpose and scope.
579.3 Definitions.

Subpart B—Application

579.100 Eligible applicants.
579.102 Application process.
579.104 Subsidy layering.
579.106 Environmental review.

Subpart C—Eligible Activities

579.200 Types and uses of assistance.
579.202 Rent, mortgage, and utility assistance.
579.204 Relocation assistance.
579.206 Short-term emergency lodging.
579.208 New construction.
579.210 Acquisition.
579.212 Rehabilitation.
579.214 Leasing.
579.216 Rental assistance.
579.218 Operating costs.
579.220 Rehabilitation and repairs of participant-owned housing.
579.222 Supportive services.
579.224 Use of Federal inventory property.
579.226 Capacity building.
579.228 Data collection costs.
579.230 Administrative costs.
579.232 Indirect costs.

Subpart D—Grant Award Process

579.300 Selection process.
579.302 Selection priorities.
579.304 Grant award process.

Subpart E—Program Requirements

579.400 Assessment of program participant eligibility and needs.
579.402 Match.
579.404 General operation.
579.406 Calculating occupancy charges and rent.
579.408 Limitation of stay in transitional housing.
579.410 Term of commitment; Repayment of grants; Prevention of undue benefits.
579.412 Displacement, relocation, and acquisition.
579.414 Timeliness standards.
579.416 Limitation on use of funds.
579.418 Termination of assistance to participants.
579.420 Conflicts of interest.
579.422 Program income.
579.424 Applicability of other Federal requirements.

Subpart F—Grant Administration

579.500 Data collection requirements.
579.502 Technical assistance.
579.504 Recordkeeping requirements.
579.506 Grant changes.

579.508 Enforcement.
579.510 Closeout.

Authority: 42 U.S.C. 3535(d) and 11408 *et seq.*

Subpart A—General

§ 579.1 Purpose and scope.

(a) *In general.* This part establishes the regulations that govern assistance provided under the Rural Housing Stability Assistance Program, authorized by subtitle G of title IV of the McKinney-Vento Homeless Assistance Act (the McKinney-Vento Act) (42 U.S.C. 11408). The Rural Housing Stability Assistance Program is designed to rehouse or improve the housing situations of individuals and families who are homeless or in the worst housing situations in the county receiving funds under this program, stabilize the housing of individuals and families who are at risk of homelessness, and improve the ability of the lowest-income residents of the county to afford stable housing. Funds awarded under this part are in lieu of funds awarded under the Continuum of Care program, for which the regulations are found in 24 CFR part 578. Recipients of funds under the Rural Housing Stability Assistance Program are not eligible to receive funding under the Continuum of Care program nor can funds from the two programs be combined in any other way.

§ 579.3 Definitions.

Abbreviated Consolidated Plan means an assessment of housing and homeless needs, resources, and planned activities. An abbreviated plan must contain sufficient information about:

(1) Needs;

(2) Strategies to:

(i) Provide safe and decent housing; and

(ii) Assist homeless persons, persons at risk of homelessness, and persons living in the worst housing situations by increasing the affordable housing stock and the availability of permanent housing;

(3) Resources that will be used to address identified needs; and

(4) Planned activities to address the needs to cover the type and amount of assistance anticipated to be funded by HUD, in accordance with 24 CFR 91.235.

At risk of homelessness means an individual or family defined as being at risk of homelessness in 24 CFR 576.2.

Chronically homeless means:

(1) An individual who:

(i) Is homeless and lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and

(ii) Has been homeless and living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter continuously for at least one year or on at least four separate occasions in the last 3 years, where the cumulative total of the four occasions is at least one year. Stays in institutions of 90 days or less will not constitute a break in homelessness, but rather such stays are included in the cumulative total; and

(iii) Can be diagnosed with one or more of the following conditions: substance use disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance Bill of Rights Act of 2000 (42 U.S.C. 15002)), post-traumatic stress disorder, cognitive impairments resulting from brain injury, or chronic physical illness or disability;

(2) An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility, for fewer than 90 days and met all of the criteria in paragraph (1) of this definition, before entering that facility; or

(3) A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in paragraph (1) of this definition, including a family whose composition has fluctuated while the head of this definition, including a family whose composition has fluctuated while the head of household has been homeless.

Consolidated plan means the HUD-approved plan developed in accordance with 24 CFR 91.

Continuum of Care and *Continuum* mean the group organized to carry out the responsibilities set forth in HUD's Continuum of Care program regulations in 24 CFR part 578. These organizations can include nonprofit homeless providers, victim service providers, faith-based organizations, governments, businesses, advocates, public housing agencies, school districts, social service providers, mental health agencies, hospitals, universities, affordable housing developers, law enforcement, organizations that serve homeless and formerly homeless veterans and their families, and homeless and formerly homeless persons and families to the extent these groups are represented within the geographic area and are available to participate.

County and *county equivalent* means organized local governments authorized in State constitutions and statutes and established to provide general government; including those governments designated as boroughs in Alaska, as parishes in Louisiana, and as counties in other States.

Emergency shelter is defined in 24 CFR part 576.

Fair Market Rent (FMR) means the fair market rents determined by HUD and published in the **Federal Register** annually by HUD in accordance with HUD's FMR regulations in 24 CFR part 888.

Homeless, homeless individual, and *homeless person* are defined in 24 CFR 576.2.

Homeless Management Information System (HMIS) means the information system designated by a Continuum of Care to comply with HUD's data collection, management, and reporting standards and used to collect client-level data and data on the provision of housing and services to program participants.

Permanent housing means community-based housing without a designated length of stay, and includes permanent supportive housing and permanent housing without supportive services. To be permanent housing, the program participant must be the tenant on a lease for a term of at least one year that is renewable and is terminable only for cause.

Point-in-time count means the count of sheltered and unsheltered homeless persons carried out on one night in the last 10 calendar days of January or at such other time as required by HUD, in accordance with 24 CFR 578.7.

Preliminary Pro Rata Need Amount means the dollar expression of the relative need assigned to metropolitan cities, urban counties, and all other counties determined by HUD in accordance with the calculation of preliminary pro rata need amount in HUD's Continuum of Care regulations in 24 CFR 578.17.

Private nonprofit organization means a private nonprofit organization which is a secular or religious organization described in section 501(c) of the Internal Revenue Code (IRC) of 1986 (26 U.S.C. 501(c)), that is exempt from taxation under subtitle A of the IRC, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance. A private nonprofit organization does not include a governmental organization, such as a public housing agency or housing finance agency.

Program means the Rural Housing Stability Assistance Program established under this part.

Program participant means individuals and families who are

assisted with Rural Housing Stability Assistance Program funds.

Recipient means an applicant that signs a grant agreement with HUD to use Rural Housing Stability Assistance Program funds.

Rural area and *rural community* mean any county that:

(1) Has no part of it within an area designated as a standard metropolitan statistical area by the Office of Management and Budget (OMB); or

(2) Is within an area designated as a metropolitan statistical area or considered as part of a metropolitan statistical area and at least 75 percent of its population is located on U.S. Census blocks classified as nonurban; or

(3) Is located in a State that has population density of less than 30 persons per square mile (as reported in the most recent decennial census), and of which at least 1.25 percent of the total acreage of such State is under Federal jurisdiction, provided that no metropolitan city in such State is the sole beneficiary of the grant amounts awarded under this part. A metropolitan city means a city that was classified as a metropolitan city under section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)) for the fiscal year immediately preceding the fiscal year for which Emergency Solutions Grants program funds are made available.

Subrecipient means a unit of general purpose local government or private nonprofit organization to which a recipient makes available Rural Housing Stability Assistance Program funds.

Transitional housing means housing, where all program participants have signed a lease or occupancy agreement, the purpose of which is to facilitate the movement of homeless individuals and families into permanent housing within 24 months or such longer period as HUD determines necessary. The program participant must have a lease or occupancy agreement for a term of at least one month that ends in 24 months and cannot be extended.

Victim service provider means a private nonprofit organization whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking. This term includes rape crisis centers, battered women's shelters, domestic violence transitional housing programs, and other programs.

Worst housing situation means housing that has:

(1) Serious health and safety defects, such as life-threatening deficiencies; and

(2) At least one major system that has failed or is failing including: structural support, roofing, cladding, weatherproofing (e.g., windows, doors, siding, gutters), plumbing, electrical, heating, ventilation, and air conditioning.

Subpart B—Application

§ 579.100 Eligible applicants.

(a) *County beneficiary.* Program funds are intended to benefit eligible counties that meet the definition of a rural county, as defined in § 579.3.

(b) *Who may apply.* Organizations eligible to apply for funds are:

(1) Counties;

(2) Private nonprofit organizations, as defined in § 579.3, designated by the county; and

(3) Units of local government designated by the county.

(c) *Applicant limit.* Only one applicant per county may apply.

(d) *Exclusions.* Funds awarded under the Rural Housing Stability Assistance Program are in lieu of funds awarded under the Continuum of Care program for which the regulations are found in 24 CFR part 578. No county in which a project funded by the Continuum of Care program is administered may receive an award under the Rural Housing Stability Assistance Program, either directly or through a designee. To be eligible for funds under this part, the Preliminary Pro Rata Need (PPRN) amounts associated with the rural county and all metropolitan cities therein may only be claimed in an application for funds under this part. The rural county and all metropolitan cities therein, will be required to exclude all PPRN amounts from any application submitted under 24 CFR part 578.

§ 579.102 Application process.

(a) *Notice.* For each Federal fiscal year, HUD will announce:

(1) A list of counties eligible to apply;

(2) The PPRN amounts assigned to metropolitan cities, urban counties, and all other counties in accordance with 24 CFR 578.17.

(3) A notice of funding availability (NOFA) in accordance with the requirements of the HUD Reform Act regulations in 24 CFR part 4 setting forth the application requirements, including:

(i) The time and manner in which applicants must submit applications;

(ii) A description of the target population(s), including a plan for serving populations throughout the county;

(iii) A description of the types of assistance to be provided;

(iv) An assurance that the assistance to be provided is closely related to the identified needs of the target population(s);

(v) A description of the existing assistance available to the target population(s), including Federal, State, and local programs, and a description of the manner in which the organization will coordinate with and expand existing assistance or provide assistance not available in the immediate area;

(vi) An agreement by the applicant that it will collect data on the activities conducted by the applicant, including assistance provided, number and characteristics of persons served, and causes of homelessness for persons served;

(vii) A description of how individuals and families who are homeless or who have the lowest incomes in the county will be involved by the applicant through employment, volunteer services, and otherwise, in providing, operating, and rehabilitating housing assistance under this program and in providing services assisted under this program and services for occupants of housing assisted under this program;

(viii) A description of consultations that took place within the county to ascertain the priorities and goals for using the funding under this section, including the involvement of potential beneficiaries of the project;

(ix) A description of the extent and nature of homelessness and of the worst housing situations in the county;

(x) A description for how the applicant plans to continue to support housing assistance initiated with program funds at the conclusion of the grant term; and

(xi) Other requirements set forth in the NOFA.

(b) *Special case; abbreviated consolidated plan.* (1) Each applicant must submit the county's consolidated plan or establish an abbreviated consolidated plan if the county does not have its own consolidated plan.

(i) A county in which it, or its designee, is a recipient of grant funds under this program must submit an abbreviated consolidated plan that is applicable to the program, and that meets the requirements of HUD's Consolidated Plan regulations in 24 CFR 91.235. HUD will not award grants to recipients seeking to serve a rural county unless the county submits an abbreviated consolidated plan on or before the time of application.

(ii) The county must identify and describe any areas within the county with concentrations of racial/ethnic minorities, stating how it defines the term ''area of minority concentration'' for this purpose. Where the state in which the county is located has already

defined ''area of minority of concentration,'' the county may adopt that definition in its abbreviated consolidated plan. The locations and degree of these concentrations must be identified, either in a narrative or on one or more maps.

(iii) The county must make reasonable efforts to consult with public and private social service agencies regarding the needs to be served with the funding sought from HUD. The county must contact the State to consult on the needs of the county. Counties must conduct a citizen participation process as provided in section 107 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12707).

(iv) For the purpose of applications for this program, the citizen participation requirements of 24 CFR 91.105 do not apply.

§ 579.104 Subsidy layering.

(a) Applicants to this program must comply with HUD subsidy layering requirements in section 102 of the Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) and the regulations in 24 CFR part 4, subpart A.

(b) An applicant must submit information in its application on other sources of governmental assistance that the applicant has received, or reasonably expects to receive, for a proposed project or activities. HUD's review of this information is intended to prevent excessive public assistance for a proposed project or activities by combining (layering) assistance under this program with other governmental housing assistance from Federal, State, or local agencies, including assistance such as tax concessions or tax credits.

§ 579.106 Environmental review.

(a) Activities under this part are subject to environmental review by HUD under 24 CFR part 50. The recipient or subrecipient shall supply all available, relevant information necessary for HUD to perform any environmental review required by 24 CFR part 50 for each property. The recipient or subrecipient must carry out mitigating measures required by HUD or select an alternate eligible property. HUD may eliminate from consideration any application that would require an Environmental Impact Statement.

(b) The recipient or subrecipient, its project partners, and their contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for a project under this part, or commit or expend HUD or local funds for such eligible activities under this part, until HUD has performed an environmental review under 24 CFR part 50 and the recipient or subrecipient has received HUD approval of the property.

Subpart C—Eligible Activities

§ 579.200 Types and uses of assistance.

(a) *Grant assistance.* Assistance is available for eligible activities, as further described in this subpart to assist program participants. Eligible activities are:

(1) Rent, mortgage, and utility assistance;

(2) Relocation assistance;

(3) Short-term emergency lodging;

(4) New construction;

(5) Acquisition;

(6) Rehabilitation;

(7) Leasing;

(8) Rental assistance;

(9) Operating costs;

(10) Rehabilitation and repairs of participant-owned housing;

(11) Supportive services;

(12) Use of Federal inventory property;

(13) Capacity building;

(14) Data collection costs; and

(15) Administrative costs.

(b) *Multiple purposes.* Buildings and other structures used to provide housing, supportive housing, or supportive services may also be used for other purposes. However, assistance under this part will be available only in proportion to the use of the structure for housing, supportive housing, or supportive services. If eligible and ineligible activities are carried out in separate portions of the same structure or in separate structures, grant funds may not be used to pay for more than the actual cost of acquisition, construction, or rehabilitation of the portion of the structure or structures used for eligible activities. If eligible and ineligible activities are carried out in the same structure, the costs will be prorated based on the amount of time the space is used for eligible activities compared to ineligible activities.

§ 579.202 Rent, mortgage, and utility assistance.

(a) *Use.* Grant funds may be used to provide rental, mortgage, or utility payments on behalf of program participants who are currently living in a housing unit that they own or rent, to prevent eviction, foreclosure, or loss of utility service after two months of nonpayment. Funds may be used to pay arrears.

(b) *Duration.* Program participants may receive a maximum of 12 months of cumulative assistance, including arrears payments, for:

(1) Rental payments or mortgage payments, including property taxes associated with mortgage payments; and

(2) Utility payments, including gas, electric, heat, primary telephone, sewage/water.

(c) *Subsequent rental assistance.* Following this period of assistance, if eligible, participants may receive rental assistance under § 579.216 for transitional or permanent housing.

§ 579.204 Relocation assistance.

(a) *Use.* Grant funds may be used to provide assistance to program participants who are moving to a housing unit located outside of the county receiving funds under this part.

Relocation assistance includes:

(1) Security deposits;

(2) Utility deposits;

(3) Rent for the first month of residence at a new location;

(4) Moving services; and

(5) Housing information services.

(b) *Eligibility.* Program participants are eligible for relocation assistance if they have identified a location outside of the county where they have acquired new employment, been accepted to an educational institution, or will be reunited with family members. Program participants must provide credible evidence, as defined in § 579.504, of an identified subsequent residence and a justification for relocation.

§ 579.206 Short-term emergency lodging.

(a) *Use.* Grant funds may be used to provide short-term emergency lodging to program participants in either motels or shelters. Short-term emergency lodging includes:

(1) Lodging costs in motels or hotels for eligible program participants; and

(2) Pro-rata share of the costs of housing program participants in existing shelters.

(b) *Limitation on funds used in shelters.* Funds used in shelters shall be limited to actual costs of creating new and temporary beds being made available to assist program participants under this part and not to permanently increase the capacity of the shelter. Where existing shelter beds are unoccupied and available for eligible program participants, no program funds shall be used to place program participants in those beds. Where program funds are used to temporarily increase the capacity of a shelter, local occupancy code requirements must continue to be followed.

(c) *Lodging program participants receiving participant-owned rehabilitation and repairs.* Funds under this activity may be used to assist households in the worst housing

situations whose housing is being assisted under § 579.220, while the housing unit is being repaired and or rehabilitated.

(d) *Duration.* Program participants eligible for short-term emergency lodging are to receive a maximum of 3 months of assistance. When program participants are unable to relocate to a more permanent housing situation within 3 months because there is no other housing available, the recipient may extend the short-term emergency lodging for program participants. For program participants who are eligible to exceed the three-month limit, the recipient must determine that the program participants are still at risk of homelessness or in the worst housing situations at the end of the 3 month period.

(e) *Exception to durational limit.* When there are more than 25 percent of program participants receiving short-term emergency lodging beyond the 3 month limit, the recipient must submit a request to HUD for an exception. The request must describe the conditions that justify an exception, including an assessment of alternative housing sources and the particular needs of the program participants.

(f) *Last resort.* Program funds shall only be used for this activity when no other alternatives exist. A recipient should not make this activity a significant part of its abbreviated consolidated plan, where applicable.

§ 579.208 New construction.

(a) *Use.* Grant funds may be used to pay up to 100 percent of the cost of new construction to provide transitional or permanent rental housing to individuals and families who are homeless or at risk of homelessness, including the new construction of a building or other structure, an addition to an existing structure that increases the floor area by 100 percent or more, and the cost of land associated with that construction.

(b) *Cost comparison.* If grant funds are used for new construction, the applicant must demonstrate that the costs of new construction of a building or structure are substantially less than the costs of rehabilitation or that there is a lack of available appropriate units that could be rehabilitated at a cost less than new construction. For purposes of this cost comparison, costs of rehabilitation or new construction may include the cost of real property acquisition.

(c) *Eligible costs.* Grant funds may be used to pay for eligible costs, including but not limited to:

(1) *Development hard costs.* These costs include the actual cost of constructing housing, as described in this section.

(2) *Site improvement costs.* These costs may include the construction of on-site roads and the development and installation of sewer and water lines necessary to the development of the building or structure, including off-site connections from the property line to the adjacent street. Such costs also include clearance, demolition, and removal of buildings and improvements, including movement of structures to other sites and related reasonable and necessary site preparation costs.

(3) *Staff and overhead costs.* Staff and overhead costs directly related to carrying out eligible activities under this section.

(4) *Related reasonable and necessary soft costs.* Related reasonable and necessary soft costs, including but not limited to:

(i) Architectural, engineering, or related professional services required to prepare plans, drawings, specifications, or work write-ups;

(ii) Costs of required permits;

(iii) Costs to provide information services such as affirmative marketing and fair housing information; and

(iv) Costs incurred in order to comply with the environmental review requirements under 24 CFR part 50.

(d) *Ineligible costs.* Grant funds may not be used for new construction on leased property.

§ 579.210 Acquisition.

(a) *Use.* Grant funds may be used to pay up to 100 percent of the cost of acquisition of real property selected for transitional or permanent rental housing, other than emergency shelter, for individuals and families who are homeless or at risk of homelessness, or for the provision of supportive services as defined in § 579.222.

(b) *Eligible costs.* Grant funds may be used to pay for eligible costs, including but not limited to:

(1) Staff and overhead costs directly related to carrying out eligible activities under this section.

(2) Related reasonable and necessary soft costs, including but not limited to:

(i) Architectural, engineering, or related professional services required to prepare plans, drawings, specifications, or work write-ups;

(ii) Costs of required permits; and

(iii) Costs incurred in order to comply with the environmental review requirements under HUD's environmental regulations in 24 CFR part 50.

§ 579.212 Rehabilitation.

(a) *Use.* Grant funds may be used to pay 100 percent of the cost of rehabilitation of structures to provide transitional or permanent rental housing or supportive services to individuals and families who are homeless or at risk of homelessness.

(b) *Eligible costs.* Grant funds may be used to pay for eligible costs, including but not limited to:

(1) Installation of cost-effective energy measures.

(2) Bringing an existing structure into compliance with State and local government health and safety standards.

(3) Staff and overhead costs directly related to carrying out eligible activities under this section.

(4) Related reasonable and necessary soft costs, including:

(i) Architectural, engineering, or related professional services required to prepare plans, drawings, specifications, or work write-ups;

(ii) Costs of required permits; and

(iii) Costs incurred in order to comply with the environmental review requirements under 24 CFR part 50.

(c) *Ineligible costs.* Grant funds may not be used for rehabilitation of leased property.

§ 579.214 Leasing.

(a) *Use.* (1) Grant funds may be used to pay 100 percent of the costs of leasing a structure or structures, or portions thereof, to provide program participants transitional or permanent rental housing or supportive services. Leasing funds may not be used to lease units or structures owned by the recipient, subrecipient, their parent organization(s), any other related organization(s), or organizations that are members of a partnership where the partnership owns the structure, unless HUD authorized an exception for good cause.

(2) Any request for an exception must include the following:

(i) A description of how the leasing of these structures is in the best interest of the program;

(ii) Supporting documentation showing that the rent paid with grant funds is reasonable for the market; and

(iii) A copy of the written policy for resolving disputes between the landlord and tenant, including a recusal for officers, agents, and staff who work for both the landlord and tenant.

(b) *Requirements*–(1) *Leasing structures.* When grants are used to pay rent for all or part of a structure or structures, the rent paid by the recipient must be reasonable in relation to rent being charged in the area for comparable space. In addition, the rent paid by the recipient may not exceed rents currently being charged for comparable space.

(2) *Leasing individual units.* When grants are used to pay rent for

individual housing units, the rent paid by the recipient must be reasonable in relation to rents being charged for comparable units, taking into account the location, size, type, quality, amenities, facilities, and management services. In addition, the rents may not exceed HUD determined fair market rents.

(3) *Utilities.* If electricity, gas, and water are provided by the landlord under the lease, these utilities may be paid from leasing funds. If utilities are paid separately from grant funds, these utilities are an operating cost, except for supportive service facilities. If the structure is being used as a supportive service facility, then these utility costs are a supportive service cost.

(4) *Security deposits and first and last months' rent.* Recipients and subrecipients may use grant funds to pay security deposits, in an amount not to exceed two months of actual rent. An advance payment of the last month's rent may be provided to the landlord in addition to the security deposit and payment of the first month's rent.

(5) *Occupancy agreements.* Occupancy agreements and subleases are required as specified in § 579.406(a).

(c) *Calculation of occupancy charges.* Occupancy charges and rent from program participants must be calculated as provided in § 579.406.

(e) *Program income.* Occupancy charges collected from program participants are program income and may be used as provided under § 579.422.

§ 579.216 Rental assistance.

(a) *Use.* (1) Grant funds may be used for rental assistance for program participants. Rental assistance cannot be provided to a program participant who is already receiving tenant-based rental assistance, or living in a housing unit receiving project-based rental assistance or operating assistance, through other Federal, State or local sources.

(i) The rental assistance may be short-term, up to 3 months; medium-term, for 3 to 24 months of assistance; or long-term, for longer than 24 months of assistance. Short- and medium-term rent are subject to written standards, as provided in § 579.400(b).

(ii) The rental assistance may be tenant-based or project-based rental assistance, and may be for transitional or permanent housing.

(2) Grant funds may be used for security deposits in an amount not to exceed 2 months of rent. An advance payment of the last month's rent may be provided to the landlord in addition to the security deposit and payment of first month's rent.

(3) Grant funds may be used for the payment of reasonable rental application fees.

(b) *Rental assistance administrator.* Rental assistance must be administered by recipients or subrecipients under this program.

(c) *Tenant-based rental assistance*–(1) *Benefits of tenant-based rental assistance.* Tenant-based rental assistance is rental assistance in which program participants choose rental housing of an appropriate size in which to reside. When necessary to facilitate the coordination of supportive services, recipients and subrecipients may require program participants receiving rental assistance in permanent housing to live in a specific area for their entire period of participation, or in a specific structure for the first year and in a specific area for the remainder of their period of participation. Program participants who are receiving rental assistance in transitional housing must live in a specific structure for their entire period of participation in transitional housing.

(2) *Fleeing domestic violence.* Program participants who have complied with all program requirements during their residence and who have been victims of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believe they are imminently threatened by harm from further domestic violence, dating violence, sexual assault, or stalking (which would include threats from a third party, such as a friend or family member of the perpetrator of the violence), if they remain in the assisted unit, and are able to document the violence and basis for their belief, may retain the rental assistance, through the term of assistance, and move to a different county if they move out of the assisted unit to protect their health and safety.

(d) *Project-based rental assistance.* Project-based rental assistance is provided through a contract with the owner of an existing structure, where the owner agrees to lease the subsidized units to program participants. Program participants will not retain the rental assistance if they move from a subsidized unit.

(e) *Amount.* The amount of rental assistance awarded will be based on the number and size of units proposed by the applicant to be assisted over the grant period. The amount of rental assistance in each project will be calculated by multiplying the number of units proposed by the recipient by the area's FMR of each unit on the date the application is submitted to HUD, by the term of the grant.

(f) *Rent reasonableness.* HUD will only provide rental assistance for a unit if the rent is reasonable. The recipient or subrecipient must determine whether the rent charged for the unit receiving rental assistance is reasonable in relation to rents being charged for comparable unassisted units, taking into account the location, size, type, quality, amenities, facilities, and management and maintenance of each unit. Reasonable rent must not exceed rents currently being charged by the same owner for comparable unassisted units.

(g) *Vacancies.* If a unit assisted under this part is vacated before the expiration of the lease, the assistance for the unit may continue for a maximum of 30 days from the end of the month in which the unit was vacated, unless occupied by another eligible person. No additional assistance will be paid until the unit is occupied by another eligible person. Brief periods of stays in institutions, not to exceed 90 days for each occurrence, are not considered vacancies.

(h) *Property damage.* Recipients and subrecipients may use grant funds in an amount not to exceed one month's rent to pay for any damage to housing due to the action of a program participant. This shall be a one-time cost per participant, incurred at the time a participant exits a housing unit. This one-time cost limit is not in addition to a deduction to the security deposit, if provided, but rather includes any deductions made from the security deposit.

(i) *Resident rent.* Rent must be calculated as provided in § 579.406. Rents collected from program participants are program income and may be used as provided under § 579.422.

(j) *Leases*–(1) *Initial lease.* Program participants must enter into a lease agreement for a term of at least one year, which is terminable for cause. The leases must be automatically renewable upon expiration for terms that are a minimum of one month long, except on prior notice by either party.

(2) *Initial lease for transitional housing.* Program participants in transitional housing must enter into a lease agreement for a term of at least one month. The lease must be automatically renewable upon expiration, except on prior notice by either party, up to a maximum term of 24 months.

§ 579.218 Operating costs.

(a) *Use.* Grant funds may be used to pay the costs of the day-to-day operation of transitional and permanent housing in a single structure or individual housing units, owned or leased by the recipient or subrecipient.

(b) *Eligible costs.* (1) The maintenance and repair of housing;

(2) Property taxes and property insurance, where the property taxes and property insurance incurred in a structure must be charged based on the pro rata share of services incurred in the day-to-day operation of housing under this activity;

(3) Scheduled payments to a reserve for replacement of major systems of the housing (provided that the payments must be based on the useful life of the system and expected replacement cost);

(4) Building security;

(5) Electricity, gas, and water;

(6) Furniture; and

(7) Equipment.

(c) *Ineligible costs.* Operating funds may not be used for rental assistance or leasing in the same building or other structure. Operating funds may not be used for the operating costs of emergency shelters and supportive service only facilities. Operating funds may not be used for the maintenance and repair of housing where the costs of maintaining and repairing the housing are included in the lease.

§ 579.220 Rehabilitation and repairs of participant-owned housing.

(a) *Use.* Grant funds may be used to provide repairs and rehabilitation to participant-owned housing for participants who are in the worst housing situations, with an income level at 50 percent area median income (AMI) or below, and who are seeking to repair or rehabilitate housing that:

(1) The participant resides in as their principal place of residence; and

(2) The housing has serious health and safety defects including life-threatening deficiencies and has at least one major system that has failed or is failing as determined by a certified professional.

(b) *Eligible costs.* Eligible costs are the costs of repairing, rehabilitating, or replacing major systems that have failed or are failing. Housing that is rehabilitated with program funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. The county must have written standards for rehabilitation that ensure that participant-owned housing assisted under this activity is decent, safe, and sanitary. In the absence of a local code, the rehabilitation must meet, as applicable, one of three model codes: Uniform Building Code (ICBO), National Building Code (BOCA), Standard (Southern) Building Code (SBCCI); or the Council of American Building Officials (CABO) one- or two-family code; or the Minimum Property Standards (MPS) in 24 CFR 200.925 or 200.926.

(c) *Residency requirement after assistance is provided.* Program participants who receive assistance under this section must enter into a written repayment agreement with the recipient or subrecipient that states that the program participant agrees to remain in the residence following rehabilitation and repairs for a period of 3 years following the completion of the repairs and rehabilitation. Program participants who leave the premises prior to the fulfillment of the 3 year residency requirement may be required to reimburse the recipient up to the full amount of assistance that was provided for the repair or rehabilitation in accordance with the terms of this repayment agreement.

§ 579.222 Supportive services.

(a) *In general.* (1) Grant funds may be used to pay for the development and delivery of comprehensive and coordinated supportive services that use and supplement, as needed, community networks of services, or as may be necessary to assist program participants to obtain and maintain housing.

(2) Recipients and subrecipients shall conduct an assessment of the service needs of the program participants at least annually and must adjust services accordingly. The costs of the assessment are eligible costs.

(i) If the services are being provided by the recipient or subrecipient directly, eligible costs are the costs of the labor, supplies, and materials directly associated with providing the services to program participants.

(ii) The salary and benefit packages of the recipient and subrecipient staff who directly deliver the services constitute an eligible cost.

(iii) Staff training and the costs of obtaining professional licenses or certifications are not eligible supportive services costs.

(iv) If the supportive services are provided in a supportive service facility not contained in a housing structure, the costs of day-to-day operation of the supportive service facility, including maintenance, repair, building security, furniture, utilities, and equipment are eligible. The supportive services costs incurred in a supportive service facility must be charged based on the pro rata share of services incurred in the supportive service facility.

(3) *Supportive service agreement.* Recipients and subrecipients may require the program participants to take part in supportive services that are not disability-related services provided through the project as a condition of continued participation in the program. Examples of disability-related services include, but are not limited to, mental health services, outpatient health services, and provision of medication, which are provided to a person with a disability to address a condition caused by the disability. Notwithstanding this provision, if the purpose of the project is to provide substance abuse treatment services, recipients and subrecipients may require program participants to take part in such services as a condition of continued participation in the program.

(4) *Special populations.* All eligible costs are eligible to the same extent for program participants who are unaccompanied homeless youth, persons living with HIV/AIDS, and victims of domestic violence, dating violence, sexual assault, or stalking.

(b) *Eligible costs*–(1) *Budgeting.* The costs of assisting program participants to manage their financial resources in order to stabilize and maintain housing are eligible costs. Budgeting activities include services that provide critical skills related to household budgeting, money management, credit counseling, accessing a free personal credit report, and resolving personal credit issues.

(2) *Case management.* The cost of assessing, arranging, coordinating, and monitoring the delivery of individualized services to meet the needs of the program participant(s) are eligible costs. Component services and activities consist of:

(i) Counseling;

(ii) Developing, securing, and coordinating services;

(iii) Obtaining Federal, State, and local benefits;

(iv) Monitoring and evaluating program participant progress;

(v) Providing information and referrals to other providers, including referrals to Veterans' services;

(vi) Providing ongoing risk assessment and safety planning with victims of domestic violence, dating violence, sexual assault, and stalking; and

(vii) Developing an individualized housing and service plan, including planning a path to permanent housing stability.

(3) *Child care.* The costs of establishing and operating child care, and providing child care vouchers, for children from program participant households with children, including providing meals and snacks, and comprehensive and coordinated sets of appropriate developmental activities, are eligible costs. The child care center must be licensed by the jurisdiction in which it operates in order for its costs

to be eligible. To be eligible for child care, a child must be:

(i) Under the age of 13, unless the child is disabled; or

(ii) Under the age of 18 if the child is disabled.

(4) *Education services.* The costs of improving knowledge and basic educational skills are eligible costs.

(i) Services include instruction or training in consumer education, health education, substance abuse prevention, community protection and safety education, literacy, English as a Second Language, and General Educational Development (GED).

(ii) Component services or activities are screening, assessment, and testing; individual or group instruction; tutoring; provision of books, supplies, and instructional material; counseling; and referral to community resources.

(5) *Emergency food and clothing.* The cost of providing meals or groceries and suitable clothing to program participants are eligible costs. Emergency clothing refers to clothing suitable for persons to be modestly covered and appropriate for the weather in the recipient jurisdiction, including coats and blankets where needed.

(6) *Employment assistance and job training.* The costs of services or activities provided to assist individuals in securing employment; acquiring or learning skills that promote opportunities for employment, advancement, and increased earning potential; and in retaining a job, including the acquisition of vocational licenses and/or certificates. Learning skills include those skills that can be used to secure and retain a job, including the acquisition of vocational licenses and/or certificates. The cost of providing reasonable stipends to program participants to participate in employment assistance and job training programs is an eligible cost. Services that assist individuals in securing employment consist of:

(i) Employment screening, assessment, or testing;

(ii) Structured job skills and job seeking skills;

(iii) Special training and tutoring, including literacy training and prevocational training; (iv) Books, supplies and instructional material;

(v) Counseling or job coaching;

(vi) Referral to community resources;

(vii) Reasonable registration fees for job placement agencies; and

(viii) Reasonable registration fees to attend job career fairs and conventions that are relevant to the participants' needs.

(7) *Health related services.* The costs of in-home or out-of-home services or activities that provide direct treatments or are designed to assist individuals and families to attain and maintain a favorable condition of health and are provided by licensed medical professionals are eligible costs. Component services and activities include the cost of:

(i) Providing an analysis or assessment of a program participant's health problems and the development of a treatment plan;

(ii) Assisting program participants to identify and understand their health needs;

(iii) Providing directly or assisting program participants to locate, provide or secure, and understand their health needs;

(iv) Providing directly or assisting program participants to obtain appropriate medical treatment, preventive medical care, and health maintenance services, including in-home health services and emergency medical services;

(v) Appropriate medication and follow-up services as needed; and

(vi) Preventive and noncosmetic dental care.

(8) *Housing search and counseling services.* The costs of assisting eligible program participants to locate, obtain, and retain suitable housing are eligible costs.

(i) Component services or activities include tenant counseling; assisting individuals and families to understand leases; securing utilities; and making moving arrangements.

(ii) Other eligible costs:

(A) Mediation with property owners and landlords on behalf of eligible program participants; and

(B) The payment of rental application fees.

(iii) Costs of renegotiating mortgage or loan terms for current homeowners are not eligible costs.

(9) *Legal services.* Eligible costs are the costs of referral to legal services, for advice and representation in matters that interfere with a program participant's ability to obtain and retain housing. Eligible costs of referral to legal services include staff costs to assess participants' needs for legal assistance, costs associated with holding a legal clinic and inviting pro bono attorneys to assess participants' needs and then refer them to an appropriate service venue, and costs associated with state and local bar associations that offer attorney referral services to initially assess participants and refer them to an appropriate legal service provider. Eligible subject matters are child support; guardianship; paternity; emancipation; legal separation; orders of protection and other civil remedies for victims of domestic violence, dating violence, sexual assault, and stalking; appeal of veterans and public benefit claim denials; landlord tenant disputes; and the resolution of outstanding criminal warrants.

(10) *Life skills training.* The costs of teaching critical life management skills that may never have been learned or have been lost during the course of physical or mental illness, domestic violence, substance use, and homelessness are eligible costs.

(i) These services must be necessary to assist the individual to function independently in the community.

(ii) Component life skills training are household management of time and household responsibilities, conflict management, shopping for food and needed items, nutrition, the use of public transportation, and parent training.

(11) *Mental health services.* Eligible costs are the direct outpatient treatment of mental health conditions and are provided by licensed professionals.

(i) Mental health services are the application of therapeutic processes to personal, family, situational, or occupational problems in order to bring about positive resolution of the problem or improved individual or family functioning or circumstances. Problem areas may include family and marital relationships, parent-child problems, or symptom management.

(ii) Component services include crisis interventions; counseling; individual, family or group therapy sessions; the prescription of psychotropic medications or explanations about the use and management of medications; and combinations of therapeutic approaches to address multiple problems.

(12) *Moving services.* Reasonable one-time moving costs are eligible and include truck rental, hiring a moving company, or short-term storage fees. Short-term storage fees are permitted for either a maximum of 3 months or until the program participant moves into housing, whichever is shorter.

(13) *Outreach services.* The costs of activities to engage persons for the purpose of providing immediate support and intervention, as well as identifying potential program participants, are eligible costs.

(i) Eligible costs include the transportation and cell phone costs incurred by outreach workers in the performance of these activities.

(ii) Component activities and services consist of:

(A) Initial assessment;

(B) Crisis counseling;

(C) Addressing urgent physical needs such as providing meals, blankets, clothes or toiletries;

(D) Actively connecting and providing people with information and referrals to homeless and mainstream programs; and

(E) Advertising housing and services eligible under this program to all persons who may qualify for admission to the housing or services project.

(14) *Substance abuse treatment services.* Eligible substance abuse treatment services are designed to prevent, reduce, eliminate, or deter relapse of substance abuse or addictive behaviors and are provided by licensed or certified professionals.

(i) Eligible treatment consists of client intake and assessment, and outpatient treatment for up to 30 days. Group and individual counseling and drug testing are eligible costs.

(ii) Inpatient detoxification and other inpatient drug or alcohol treatment are ineligible.

(15) *Transportation.* (i) Generally, the recipient may provide temporary transportation services directly to program participants if the recipient determines such assistance is necessary; however, the preferred method of direct provision of transportation services is the provision of tokens, vouchers, or other appropriate instruments so that program participants may use available public transportation options.

(ii) Eligible costs consist of:

(A) A program participant's travel on public transportation or in a vehicle provided by the recipient or subrecipient to and from medical care, employment, child care, or other services eligible under this section;

(B) Mileage allowance for service workers to visit program participants and to carry out housing quality inspections;

(C) The cost of purchasing or leasing a vehicle in which staff transports program participants and/or staff serving program participants, including the cost of gas, insurance, taxes and maintenance for the vehicle;

(D) The costs recipient staff incurs to accompany or assist program participants to utilize public transportation; and

(E) If public transportation options are not sufficient within a county, the recipient may make a one-time payment on behalf of a program participant needing car repairs or maintenance required to operate a personal vehicle subject to the following:

(*1*) Payments for car repairs or maintenance on behalf of the program participant may not exceed 10 percent of the Blue Book value of the vehicle (Blue book refers to the guidebook that compiles and quotes prices for new and used automobiles and other vehicles of all makes, models and types) or a reasonable estimate of the current market value if no Blue Book value is available;

(*2*) Payments for car repairs or maintenance must be paid by the recipient directly to the third party that repairs or maintains the car; and

(*3*) The recipients may require program participants to share in the cost of car repairs or maintenance as a condition of receiving assistance with car repairs or maintenance.

§ 579.224 Use of Federal inventory property.

(a) In addition to the eligible activities listed elsewhere in subpart C and as provided in paragraph (b) of this section, certain costs related to the recipient's or subrecipient's use of excess or surplus Federal real property made available under title V of the McKinney-Vento Act or real property made available under section 204(g) of the National Housing Act (12 U.S.C. 1710(g)) to house homeless persons are eligible costs.

(b) With respect to the activities described in paragraph (a) of this section, the following costs are eligible:

(1) The costs of preparing and submitting applications to obtain ownership of the real property;

(2) The costs of bringing the real property into compliance with local building codes, with bringing public water, sanitation, sewers, and utilities to the property; and

(3) The costs of creating or improving access to the real property from public roads.

§ 579.226 Capacity building.

(a) *In general.* Capacity building activities are those activities that assist recipient personnel to maintain or improve the skills necessary to strengthen the capability of recipients to deliver housing and supportive services to program participants and to administer grants under this program. Eligible capacity building activities may include costs such as salaries, wages, other employee compensation and benefits, employee education, training, and travel.

(b) *Staff retention.* Available funds may also be used for staff retention activities such as financial incentives to staff; paying for continuing education opportunities; cross-training within an organization; staff training and professional licensing or certification; and other professional development activities of persons employed by agencies providing housing and supportive services under this part.

(c) *Limit.* No more than 20 percent of the total amount awarded to, or on behalf of, a county under this part may be used for capacity building activities.

§ 579.228 Data collection costs.

(a) *Eligible costs.* (1) The recipient or subrecipient may use program funds to pay the costs of contributing data to an HMIS designated by a Continuum of Care. Recipients or subrecipients may also use program funds to pay the costs of establishing their own comparable data collection system where the recipient or subrecipient cannot obtain approval from a Continuum of Care to contribute data to its existing HMIS. Eligible costs include:

(i) Purchasing or leasing computer hardware;

(ii) Purchasing software or software licenses;

(iii) Purchasing or leasing equipment, including telephones, faxes, and furniture;

(iv) Obtaining technical support;

(v) Leasing office space;

(vi) Paying charges for electricity, gas, water, phone service, and high-speed data transmission necessary to operate or contribute data to the HMIS;

(vii) Paying salaries for operating HMIS, including:

(A) Completing data entry;

(B) Monitoring and reviewing data quality;

(C) Completing data analysis;

(D) Reporting data to the HMIS Lead;

(E) Training staff on using the HMIS; and

(F) Implementing and complying with HMIS requirements;

(viii) Paying costs of staff to travel to and attend HUD-sponsored and HUD-approved training on HMIS and programs authorized by title IV of the McKinney-Vento Act;

(ix) Paying staff travel costs to conduct intake; and

(x) Paying participation fees charged by the HMIS Lead. The HMIS Lead is the entity designated by the Continuum of Care to operate the area's HMIS.

(2) If the recipient or subrecipient is a victim services provider, as defined in section 401(32) of the McKinney-Vento Act, or a legal services provider, it may use program funds to establish and operate a comparable database that collects client-level data over time (i.e., longitudinal data) and generates unduplicated aggregate reports based on the data. Information entered into a comparable database must not be entered directly into or provided to an HMIS.

(b) *General restrictions.* Activities funded under this section must comply

with HUD's standards on participation, data collection, and reporting under a local HMIS.

(c) *Point-in-time count participation.* All recipients must participate in or plan for and conduct a point-in-time count of sheltered and unsheltered homeless persons within the county within the last 10 days of January, unless HUD authorized an exception for good cause during the grant period.

(1) *Manner of point-in-time count.* The point-in-time count must be conducted in the manner prescribed by HUD. Recipients may participate in the point-in-time count of an adjacent Continuum of Care, including the planning, implementation, and evaluation of the count, if the adjacent Continuum of Care is willing to include the recipients in their point-in-time process.

(2) *Exception time frame.* If an exception to conducting the point-in-time count within the last 10 days of January is authorized, recipients must conduct the count between December 1 and March 31.

(3) *Good cause for exception.* Good cause for an exception includes:

(i) A longstanding tradition for performing such a count at a date between December 1 and March 31; and

(ii) Unanticipated inclement weather (i.e., snowstorm, hurricane, tornado) and other natural disasters.

(4) *Actual costs.* Actual costs of conducting or participating in the count of an adjacent Continuum of Care are allowable administrative costs.

(d) *Housing inventory count participation.* (1) During the grant period, recipients must perform an annual housing inventory survey and report their data in accordance with a manner prescribed by HUD.

(2) *Participation with an adjacent Continuum of Care.* Recipients may participate with an adjacent Continuum of Care to conduct their housing inventory count, if the adjacent Continuum of Care is willing to include the recipients in their housing inventory count process. If recipients are participating in an adjacent Continuum of Care's point-in-time count and the recipient wants to participate with a Continuum of Care to conduct its housing inventory count, it must participate with the same Continuum of Care for both the point-in-time and the housing inventory count.

(3) Actual costs of conducting this survey, including participation with an adjacent Continuum of Care, are allowable administrative costs.

§ 579.230 Administrative costs.

(a) *In general.* No more than 7.5 percent of the total grant awarded under this part may be used for the purpose of paying costs of administering assistance. If the recipient is using a subrecipient to operate a project, the amount of administrative costs shared must be reasonable under the circumstances.

(b) *Eligible administrative costs.* (1) Administrative costs include the costs of accounting for the use of grant funds, costs of preparing an abbreviated consolidated plan, preparing reports for submission to HUD, audits, and the cost of staff performing these activities. Costs may also include training for staff who will administer the program or case managers who will serve program participants, as long as this training is directly related to McKinney-Vento Act programs.

(2) Administrative costs do not include the costs of carrying out eligible activities.

(3) Administrative costs are not capacity building activities.

§ 579.232 Indirect costs.

(a) *In general.* Program funds may be used to pay indirect costs in accordance with OMB Circulars A–87 or A–122, as applicable. Circular A–87 is entitled ''Cost Principles for States, Local, and Indian Tribal Governments.'' Circular A–122 is entitled ''Cost Principles for Non-Profit Organizations.'' The provisions of these cost principle circulars are codified in the governmentwide regulations found at 2 CFR part 225, and 2 CFR part 230, respectively.

(b) *Allocation.* Indirect costs may be allocated to each eligible activity, as long as that allocation is consistent with an indirect cost rate proposal developed in accordance with OMB Circulars A–87 or A–122, as applicable.

Subpart D—Grant Selection and Award Process

§ 579.300 Selection process.

(a) *Selection criteria.* The selection criteria include:

(1) The participation of program participants in assessing the need for, and importance of, the grant in the county;

(2) The degree to which the grant addresses the worst housing situations present in the county;

(3) The degree of collaboration with others in the county to meet the goals described in § 579.1;

(4) The performance of the applicant in improving housing situations, taking into account the severity of the barriers of individuals and families served by the applicant;

(5) For applicants that have previously received funding under this part, the extent to which the county has successfully demonstrated improvement in meeting the needs of program participants through the administration of its previous grants under this part, as determined by HUD;

(6) The need for such funds, as determined by the formula established under section 427(b)(2) of the McKinney-Vento Act; and

(7) Any other relevant criteria as determined by HUD.

(b) *Selection decision.* HUD will award funds to recipients through a national competition based on selection criteria as defined in paragraph (a) of this section.

§ 579.302 Selection priorities.

(a) *In general.* HUD will, at a minimum, make selections of awards according to the following selection priorities:

(1) *Set-aside for counties with populations of less than 10,000.* Of the total funds HUD awards under this program for a fiscal year, HUD will award a minimum of 50 percent of the total award funds to applicants applying to serve counties that have county populations of less than 10,000.

(2) *Priority within the set-aside.* Within the set-aside for counties with populations of less than 10,000, HUD will give priority to applicants applying to serve counties with county populations of less than 5,000.

(3) *Counties without significant Federal assistance.* In awarding grants for this program for a fiscal year, including the grants awarded in accordance with paragraph (a) of this section, HUD will give priority to applicants applying to serve counties that are not currently receiving Federal assistance under the Emergency Solutions Grants program, for which the regulations are found in 24 CFR part 576, or under the Continuum of Care program, for which the regulations are found in 24 CFR part 578.

(4) *State limit.* In awarding Rural Housing Stability Assistance Program grants for a fiscal year, HUD will not award to eligible applicants in a single State an aggregate sum of more than 10 percent of the total award amount for the program.

§ 579.304 Grant award process.

(a) *Notification of selection.* HUD will notify applicants selected for awards of any conditions imposed on the award. Conditions must be satisfied before HUD will execute a grant agreement with the applicant.

(b) *Conditions precedent to grant execution.* HUD will withdraw the award if the applicant does not meet all requirements for obligation of the funds, including:

(1) Documenting evidence of meeting match requirements;

(2) Conducting environmental review;

(3) Documenting financial feasibility; and

(4) Correcting all issues and conditions attached to the grant award within 12 months of the announcement of the award.

(c) *Exception.* HUD may execute a grant agreement with the applicant before all the conditions in paragraph (b) of this section are satisfied, subject to the condition that the applicant may only use grant funds obligated for one or all of the following eligible costs: capacity building, supportive services provided at sites not operated by the recipient or subrecipient, or HMIS eligible costs. If an applicant expends funds for capacity building, supportive services to sites not operated by the recipient or subrecipient, or HMIS and fails to subsequently meet the conditions precedent for the other activities HUD may recapture the applicant's grant funds.

(d) *Obligation deadline.* All grant funds must be obligated by the recipient by the end of the recipient's second fiscal year. Any funds that remain unobligated after the recipient's second fiscal year must be recaptured by HUD. All funds must be spent by recipients by the end of the grant term.

(e) *Required agreements.* Recipients will be required to sign a grant agreement in which the recipient agrees to:

(1) Ensure the operation of the grant in accordance with the provisions of the McKinney-Vento Act and all requirements under this part;

(2) Monitor and report the programmatic and financial progress of the grant to HUD;

(3) Ensure, to the maximum extent practicable, that low- and very-low income individuals and families, including those individuals and families experiencing or at risk of homelessness or in the worst housing situations, are involved, through employment, provision of volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating facilities for the project and in providing supportive services for the project as required by section 491(d)(6) of the McKinney-Vento Act;

(4) Require a certification from each subrecipient in which the subrecipient certifies to:

(i) Maintain the confidentiality of records pertaining to any individual or family who was provided family violence prevention or treatment services through the project;

(ii) Maintain the confidentiality of the address or location of any family violence shelter project assisted under this part, except with written authorization of the person responsible for the operation of such project;

(iii) Establish policies and practices that are consistent with, and do not restrict the exercise of rights provided by, subtitle B of title VII of the McKinney-Vento Act (42 U.S.C. 11431 *et seq.*) and other laws relating to the provision of educational and related services to individuals and families experiencing homelessness;

(iv) In the case of projects that provide housing or services to families, designate a staff person to be responsible for ensuring that children being served in the program are enrolled in school and connected to appropriate services in the community, including early childhood programs such as Head Start, part C of the Individuals with Disabilities Education Act, and programs authorized under subtitle B of title VII of McKinney-Vento Act (42 U.S.C. 11431 *et seq.*); and

(iv) Provide information, such as data and reports, as required by HUD;

(5) Monitor and report the provision of matching funds to HUD;

(6) Take the educational needs of children into account when families are placed in housing and to the maximum extent practicable, place families with children as close as possible to their school of origin so as not to disrupt such children's education;

(7) Make known that use of the facilities, assistance, and services is available to all on a nondiscriminatory basis;

(8) Monitor subrecipients at least annually; and

(9) Comply with such other terms and conditions as HUD may establish.

Subpart E—Program Requirements

§ 579.400 Assessment of program participant eligibility and needs.

(a) *In general.* The recipient or its subrecipient must conduct an initial evaluation and, when required by HUD, periodic reevaluations to determine the eligibility of each family or individual and to determine the amount and types of assistance each family or individual needs to regain stability in permanent housing.

(b) *Written standards for determining the amount and types of assistance.* (1) The recipient must have written standards for the provision of assistance under this part and must consistently apply those standards for all program participants.

(2) At a minimum, these written standards must include:

(i) Standards for determining and prioritizing which eligible families and individuals will receive assistance; and

(ii) The limits on the assistance that each program participant may receive.

(c) *Annual income.* When determining the annual income of an individual or family, the recipient or subrecipient must use the standard for calculating annual income under 24 CFR 5.609, except that the value of the program participant's principal residence should be excluded from the calculation of the Net Family Assets when providing rehabilitation and repairs to participant-owned housing.

§ 579.402 Match.

(a) *In general.* The recipient or subrecipient must match all grant funds, except for leasing funds, data collection costs, and administrative costs, with no less than 25 percent of funds or in-kind contributions from other sources.

(b) *Cash resources.* (1) Cash match must be for the costs of activities that are eligible under subpart C of this part.

(2) Cash match must be cash resources provided to the project by one or more of the following:

(i) The recipient;

(ii) The Federal Government;

(iii) State and local governments; or

(iv) Private resources.

(c) *Sources.* A recipient may use funds from any source, including any other Federal sources (excluding Rural Housing Stability Assistance Program funding), as well as State, local, and private sources, provided that funds from the source are not statutorily prohibited to be used as a match. The recipient must ensure that any funds used to satisfy the matching requirements of this section are eligible under the laws governing the funds in order to be used as matching funds for a grant awarded under this program.

(d) *Noncash contributions.* (1) In-kind contributions must be used to provide services that are eligible under subpart C of this part.

(2) The requirements of 24 CFR 84.23, pertaining to cost sharing or matching for nonprofit organizations, and 24 CFR 85.24, pertaining to cost sharing or matching for State, local, and Federally recognized Indian tribal governments, apply.

(3) Before grant execution, services to be provided by a third party must be documented by a memorandum of understanding (MOU) or a

memorandum of agreement (MOA) between the recipient or subrecipient and the third party that will provide the services. Services provided by individuals must be valued at rates consistent with those ordinarily paid for similar work in the recipient's or subrecipient's organization. If the recipient or subrecipient does not have employees performing similar work, the rates must be consistent with those ordinarily paid by other employers for similar work in the same labor market.

(i) The MOU or MOA must establish the unconditional commitment, except for selection to receive a grant, by the third party to provide the services, the specific service to be provided, the profession of the persons providing the service, and the hourly cost of the service to be provided.

(ii) During the term of the grant, the recipient or subrecipient must keep and make available for inspection, records documenting the service hours provided.

§ 579.404 General operation.

(a) *State and local requirements.* Each recipient and subrecipient of assistance under this part must provide housing or services that comply with all applicable State and local housing codes, licensing requirements, and any other requirements imposed on the provision of housing or services by the jurisdiction in which the project is located.

(b) *Property standards.* Except for such variations as are proposed by the recipient and approved by HUD, all funds used for housing except for rehabilitation of participant-owned housing, must meet the following requirements:

(1) *New construction, acquisition and rehabilitation.* All housing assisted under this part must meet State or local building code. In the absence of such code, the construction must be in compliance with one of the three model codes (Uniform Building Code (ICBO) National Building Code (BOCA), Standard (Southern) Building Code (SBCCI)); or the Council of American Building Officials (CABO), or the Minimum Property Standards (MPS) in 24 CFR 200.925 or 200.926.

(2) *Leasing, Rental Assistance, and Operating Costs.* (i) Housing assisted under this part must meet the applicable housing quality standards (HQS) under HUD's Housing Choice Voucher regulations in 24 CFR 982.401, except that 24 CFR 982.401(j) does not apply, and instead part 35, subparts A, B, K, M, and R of this title apply. For congregate facilities, such as group homes, 24 CFR 982.609 applies.

(ii) Before any assistance will be provided on behalf of a participant, the recipient, or subrecipient, must physically inspect each unit to assure that each unit meets HQS. Assistance will not be provided for units that fail to meet HQS, unless the owner corrects any deficiencies within 30 days from the date of the lease agreement and the recipient verifies that all deficiencies have been corrected.

(iii) Recipients must also inspect all units at least annually during the grant period to ensure that the units continue to meet HQS.

(3) *Physical accessibility requirements.* Recipients must comply with the Federal accessibility requirements of the Fair Housing Act, Section 504 of the Rehabilitation Act, and titles II and III of the Americans with Disabilities Act, as applicable.

(c) *Payment of grant.* (1) The grant amount awarded is intended to serve the program participants over the entire grant period. An applicant's grant request is an estimate of the amount needed to provide the activities outlined in the grant application. Recipients must make draws at least quarterly from the grant funds to pay the actual costs of eligible activities for program participants.

(2) A recipient must serve at least as many participants as shown in its approved application for assistance.

(d) *Ongoing assessment of supportive services.* Each recipient of assistance under this part must conduct an ongoing assessment of the supportive services required by the program participants of the grant, the availability of such services, and the coordination of services needed to ensure long-term housing stability and make adjustments as appropriate.

§ 579.406 Calculating occupancy charges and rent.

(a) *Occupancy agreements and leases.* Recipients and subrecipients must have signed occupancy agreements or leases (or subleases) with program participants residing in housing.

(b) *Calculation of occupancy charges.* Recipients and subrecipients are not required to impose occupancy charges on program participants as a condition of residing in the housing. However, if occupancy charges are imposed, they may not exceed the highest of:

(1) 30 percent of the family's monthly adjusted income (adjustment factors include the number of people in the family, age of family members, medical expenses, and child care expenses);

(2) 10 percent of the family's monthly income; or

(3) If the family is receiving payments for welfare assistance from a public agency and a part of the payments (adjusted in accordance with the family's actual housing costs) is specifically designated by the agency to meet the family's housing costs, the portion of the payments that is designated for housing costs.

(c) *Income calculation.* Income must be calculated in accordance with 24 CFR 5.609 and 24 CFR 5.611(a). Recipients and subrecipients must examine a program participant's income initially, and if there is a change in family composition (e.g., birth of a child) or a decrease in the program participant's income during the year, the program participant may request an interim reexamination, and the occupancy charge will be adjusted accordingly.

(d) *Resident rent*–(1) *Amount of rent.* Each program participant, on whose behalf rental assistance payments are made, must pay a contribution toward rent in accordance with section 3(a)(1) of the U.S. Housing Act of 1937 (42 U.S.C. 1437a(a)(1)).

(i) When determining the rent of a person occupying an intermediate care facility assisted under title XIX of the Social Security Act, the gross income of this person is the same as a person being assisted under title XVI of the Social Security Act.

(ii) Income of program participants must be calculated in accordance with 24 CFR 5.609 and 24 CFR 5.611(a).

(2) *Review.* Recipients or subrecipients must examine a program participant's income initially, and at least annually thereafter, to determine the amount of the contribution toward rent payable by the program participant. Adjustments to a program participant's rental payment must be made as changes in income are identified.

(3) *Verification.* As a condition of participation in the program, each program participant must agree to supply the information or documentation necessary to verify the program participant's income. Program participants must provide the recipient or subrecipient with information at any time regarding changes in income or other circumstances that may result in changes to a program participant's rental payment.

§ 579.408 Limitation on transitional housing.

An eligible individual or family may remain in transitional housing for a period longer than 24 months, if permanent housing for the individual or family has not been located or if the individual or family requires additional

time to prepare for independent living. However, HUD may discontinue assistance for a transitional housing project if more than half of the eligible individuals or families remain in that project longer than 24 months.

§ 579.410 Term of commitment; Repayment of grants; Prevention of undue benefits.

(a) *Duration of grants.* Grant terms will be established through the annual NOFA.

(b) *In general.* All recipients and subrecipients receiving grant funds for acquisition, rehabilitation, or new construction for rental housing or a facility must agree to operate the housing or provide supportive services in accordance with this part, for a term of at least 15 years from the date of initial occupancy or date of initial service provision. Recipients and subrecipients must execute and record a HUD-approved Declaration of Restrictive Covenants before receiving payment of grant funds.

(c) *Sustainability plan.* All recipients receiving grant funds to provide housing must comply with the sustainability plan that was submitted as part of the approved application that described how the project will continue to operate when the grant term terminates.

(d) *Repayment of grant funds.* If the housing is not operated as transitional or permanent housing for 10 years following the date of initial occupancy, HUD will require repayment of the entire amount of the grant used for acquisition, rehabilitation, or new construction. If the housing is used for such purposes for more than 10 years, the payment amount will be reduced by 20 percentage points for each year beyond the 10-year period in which the project is used for transitional or permanent housing.

(e) *Prevention of undue benefits.* Except as provided in paragraph (f) of this section, upon any sale or other disposition of a project site that received grant funds for acquisition, rehabilitation, or new construction, occurring before the 15-year period, the recipient must comply with such terms and conditions as HUD may prescribe to prevent the recipient or subrecipient from unduly benefiting from such sale or disposition.

(f) *Exception.* A recipient or subrecipient for all activities other than repairs or rehabilitation to participant-owned property will not be required to comply with the terms and conditions prescribed under paragraphs (d) and (e) of this section if:

(1) The sale or disposition of the property used for the project results in the use of the property for the direct benefit of very low-income persons;

(2) All the proceeds are used to provide transitional or permanent housing that meet the requirements of this part; or

(3) Project-based rental assistance or operating cost assistance from any Federal program or an equivalent State or local program is no longer made available and the project is meeting applicable performance standards, provided that the portion of the project that had benefitted from such assistance continues to meet the tenant income and rent restrictions for low-income units under section 42(g) of the Internal Revenue Code of 1986.

§ 579.412 Displacement, relocation, and acquisition.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, recipients and subrecipients must ensure that they have taken all reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations, and farms) as a result of projects assisted with Rural Housing Stability Assistance Program funds. ''Project,'' as used in this section, means any activity or series of activities assisted with program funds received or anticipated in any phase of an undertaking.

(b) *Temporary relocation.* Owner-occupants that must temporarily relocate as a result of rehabilitation or demolition for a project are not covered by this paragraph (b), but may be eligible for short-term emergency lodging assistance under § 579.206(c) and other assistance under this part. Temporary relocation, as discussed in this section, differs from relocation assistance under § 579.204 which allows relocation assistance as an eligible activity where a program participant is being moved permanently from the county based on the request of the program participant for at least one of the reasons specified in § 579.204(b). No other person may be required to relocate temporarily for a project except consistent with paragraph (c)(2)(ii) of this section, if the person is a residential tenant or program participant, and in accordance with 49 CFR part 24, Appendix A, § 24.2(a)(9)(ii)(D). No residential tenant may be temporarily relocated if the residential tenant cannot be offered a decent, safe, and sanitary dwelling unit in the same building or complex upon project completion under reasonable terms and conditions. Any residential tenant who has been temporarily relocated for a period beyond one year must be offered relocation assistance and payments consistent with paragraph (c) of this section. Such residential tenants may be given the opportunity to choose to continue to remain temporarily relocated for an agreed-to period (based on new information about when they can return to the displacement unit or another unit in the same building or complex), choose to permanently relocate to the unit which has been their temporary unit, and/or choose to permanently relocate elsewhere with assistance for displaced persons described in paragraph (c) of this section. The length of occupancy requirements in § 579.408 may prevent a person from returning to the property upon project completion. (See paragraph (c)(2)(iii)(D) of this section). Persons, other than owner-occupants, temporarily relocated in accordance with the policies described in this paragraph (b) must be provided:

(1) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied unit and any increase in monthly rent/occupancy charges, and utility costs; and

(2) Appropriate advisory services, including reasonable advance written notice of:

(i) The date and approximate duration of the temporary relocation;

(ii) The location of the suitable unit to be made available for the temporary period (if the person is a residential tenant, the suitable unit must be a decent, safe, and sanitary dwelling);

(iii) The reasonable terms and conditions under which the person will be able to lease and/or occupy a suitable unit in the building or complex upon project completion (if the person is a residential tenant, the suitable unit must be a decent, safe, and sanitary dwelling); and

(iv) The provisions of paragraph (b)(1) of this section.

(c) *Relocation assistance for displaced persons.* (1) *In general.* A displaced person (defined in paragraph (c)(2) of this section) must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended, 42 U.S.C. 4601–4655, and implementing regulations at 49 CFR part 24. A displaced person must be advised of his or her rights under the Fair Housing Act. Whenever possible, minority persons must be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings, not located in an area of

minority concentration, that are within their financial means. This policy, however, does not require providing a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling. (See 49 CFR 24.205(c)(2)(ii)(D)).

(2) *Displaced person.* (i) For the purposes of paragraph (c) of this section, the term ''displaced person'' means any person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project assisted with Rural Housing Stability Assistance Program funds. This includes any permanent, involuntary move for a project, including any permanent move from the real property that is made:

(A) After the recipient (or subrecipient, as applicable) issues a notice to move permanently from the property, if the move occurs after the recipient (or subrecipient, as applicable) submits an application for assistance to HUD (or the recipient, as applicable) that is later approved and funded;

(B) After the owner (or person in control of the site) issues a notice to move permanently from the property, or refuses to renew an existing lease, if the move occurs after the date of submission of a request for financial assistance by the property owner (or person in control of the site) that is later approved for the requested activity;

(C) Before the date described under paragraph (c)(2)(i)(A) or (B) of this section, if the recipient or HUD determines that the displacement resulted directly from acquisition, rehabilitation, or demolition for the project; or

(D) By a residential tenant or program participant occupying the property, provided that the person is not an owner-occupant, as provided in paragraph (c)(2)(ii) of this section:

(ii) For the purposes of paragraph (c) of this section, the term ''displaced person'' means any person (family, individual, business, nonprofit organization, or farm) that moves from real property, or moves personal property from real property, permanently, as a direct result of acquisition, rehabilitation, or demolition for a project. This includes any permanent, involuntary move for a project that is made by a program participant occupying the property, as provided in paragraph (c)(2)(i)(D) of this section if any one of the following three situations occurs:

(A) The residential tenant or program participant moves after execution of the agreement covering the acquisition, rehabilitation, or demolition of the property for the project and either is not eligible to return upon project completion or the move occurs before the residential tenant or program participant is provided written notice offering an opportunity to occupy a suitable, decent, safe, and sanitary dwelling in the same building or complex upon project completion under reasonable terms and conditions. Such reasonable terms and conditions for a residential tenant must include a lease (or occupancy agreement, as applicable) consistent with program requirements, including a monthly rent or occupancy charge and monthly utility costs that do not exceed the maximum amounts established in § 579.216; or

(B) The residential tenant or program participant is required to relocate temporarily, does not return to the building or complex, and any one of the following situations occurs:

(*1*) The residential tenant or program participant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation;

(*2*) The residential tenant or program participant is not eligible to return to the building or complex upon project completion; or

(*3*) Other conditions of the temporary relocation are not reasonable; or

(C) The residential tenant or program participant is required to move to another unit in the same building or complex, and any one of the following situations occurs:

(*1*) The residential tenant or program participant is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move;

(*2*) The residential tenant or program participant is not eligible to remain in the building or complex upon project completion; or

(*3*) Other conditions of the move are not reasonable.

(iii) Notwithstanding the provisions of paragraph (c)(2)(i) or (ii) of this section, a person does not qualify as a ''displaced person,'' if:

(A) The person has been evicted for serious or repeated violation of the terms and conditions of the lease or occupancy agreement; the eviction complied with Federal, State, and local requirements (see § 579.418); and the eviction was not undertaken for the purpose of evading the obligation to provide relocation assistance;

(B) The person moved into the property after the submission of the application but, before signing a lease or occupancy agreement and commencing occupancy, was provided written notice of the project's possible impact on the person (e.g., the person may be displaced, temporarily relocated, or incur a rent increase) and the fact that the person would not qualify as a ''displaced person'' (or for any relocation assistance provided under this section), as a result of the project;

(C) The person is ineligible under 49 CFR 24.2(a)(9)(ii);

(D) The person must move as a direct result of the length of occupancy restriction under § 579.408; or

(E) HUD determines that the person was not displaced as a direct result of acquisition, rehabilitation, or demolition for the project.

(iv) At any time, the recipient may request HUD's determination of whether a displacement is or would be covered under this section.

(3) *Initiation of negotiations.* For purposes of determining the formula for computing replacement housing payment assistance to be provided to a displaced person pursuant to this section, if the displacement is a direct result of privately undertaken rehabilitation, demolition, or acquisition of the real property, ''initiation of negotiations'' means the execution of the agreement between the recipient and the subrecipient, or between the recipient (or subrecipient, as applicable) and the person owning or controlling the property. In the case of an option contract to acquire property, the initiation of negotiations does not become effective until execution of a written agreement that creates a legally enforceable commitment to proceed with the acquisition, such as a purchase agreement.

(d) *Real property acquisition requirements.* Except for acquisitions described in 49 CFR 24.101(b)(1) through (5), the URA and the requirements of 49 CFR part 24, subpart B, apply to any acquisition of real property for a project where there are Rural Housing Stability Assistance Program funds in any part of the project costs.

(e) *Appeals.* A person who disagrees with the recipient's (or subrecipient's, if applicable) determination concerning whether the person qualifies as a displaced person, or the amount of relocation assistance for which the person is eligible, may file a written appeal of that determination with the recipient. (See 49 CFR 24.10.) A low-income person who is dissatisfied with the recipient's determination on his or her appeal may submit a written request for review of that determination to the local HUD field office.

§ 579.414 Timeliness standards.

(a) *In general.* Any funds that remain unobligated after the second fiscal year must be recaptured by HUD. Grant terms, and associated grant operations, cannot extend beyond the availability of funds.

(b) *Payment.* A recipient that receives funds through this part must:

(1) Pay funds to subrecipients in accordance with 24 CFR 85.21 and 24 CFR 84.22; and

(2) Draw down funds at least once per quarter of the program year after eligible activities commence to pay eligible costs.

(c) *Withdrawal of awards.* HUD will withdraw the award if the applicant does not correct all issues and conditions attached to the grant award within 12 months of the announcement of the award.

§ 579.416 Limitation on use of funds.

(a) *Maintenance of effort.* No assistance provided under this part (or any State or local government funds used to supplement this assistance) will be awarded, or may be used, to replace State or local funds previously used, or designated for use, to assist persons who are homeless, at-risk of homelessness, or in the worst housing situations.

(b) *Program fees.* Recipients and subrecipients may not charge program participants program fees.

(c) *Faith-based activities*–(1) *Equal treatment of program participants and program beneficiaries*–(i) *Program participants.* Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the Rural Housing Stability Assistance Program. Neither the Federal Government nor a State or local government receiving funds under the Rural Housing Stability Assistance Program shall discriminate against an organization on the basis of the organization's religious character or affiliation. Recipients and subrecipients of program funds shall not, in providing program assistance, discriminate against a program participant or prospective program participant on the basis of religion or religious belief.

(ii) *Beneficiaries.* In providing services supported in whole or in part with federal financial assistance, and in their outreach activities related to such services, program participants shall not discriminate against current or prospective program beneficiaries on the basis of religion, religious belief, refusal to hold a religious belief, or refusal to attend or participate in a religious practice.

(2) *Separation of explicitly religious activities.* Recipients and subrecipients of Rural Housing Stability Assistance Program funds that engage in explicitly religious activities, including activities that involve overt religious content such as worship, religious instruction, or proselytization, must perform such activities and offer such services outside of programs that are supported with Federal financial assistance separately, in time or location, from the programs or services funded under this part, and participation in any such explicitly religious activities must be voluntary for the program beneficiaries of the HUD-funded programs or services.

(3) *Religious identity.* A faith-based organization that is a recipient or subrecipient of Rural Housing Stability Assistance Program funds is eligible to use such funds as provided under the regulations of this part without impairing its independence, autonomy, expression of religious beliefs, or religious character. Such organization will retain its independence from Federal, State, and local government, and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use direct program funds to support or engage in any explicitly religious activities, including activities that involve overt religious content, such as worship, religious instruction, or proselytization, or in any manner prohibited by law. Among other things, faith-based organizations may use space in their facilities to provide program-funded services, without removing or altering religious art, icons, scriptures, or other religious symbols. In addition, a Rural Housing Stability Assistance Program-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

(4) *Alternative provider.* If a program participant or prospective program participant of the Rural Housing Stability Assistance Program supported by HUD objects to the religious character of an organization that provides services under the program, that organization shall, within a reasonably prompt time after the objection, undertake reasonable efforts to identify and refer the program participant to an alternative provider to which the prospective program participant has no objection. Except for services provided by telephone, Internet, or similar means, the referral must be to an alternate provider in reasonable geographic proximity to the organization making the referral. In making the referral, the organization shall comply with applicable privacy laws and regulations. Recipients and subrecipients shall document any objections from program participants and prospective program participants and efforts to refer such participants to alternative providers in accordance with the requirements of § 579.504(k). Recipients shall ensure that all subrecipient agreements make organizations receiving program funds aware of these requirements.

(5) *Structures.* Program funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for explicitly religious activities. Program funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. When a structure is used for both eligible and explicitly religious activities, program funds may not exceed the cost of those portions of the acquisition, new construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to the Rural Housing Stability Assistance Program. Sanctuaries, chapels, or other rooms that a Rural Housing Stability Assistance Program-funded religious congregation uses as its principal place of worship, however, are ineligible for Rural Housing Stability Assistance Program-funded improvements. Disposition of real property after the term of the grant, or any change in the use of the property during the term of the grant, is subject to governmentwide regulations governing real property disposition (see 24 CFR parts 84 and 85).

(6) *Supplemental funds.* If a State or local government voluntarily contributes its own funds to supplement federally funded activities, the State or local government has the option to segregate the Federal funds or commingle them. However, if the funds are commingled, this section applies to all of the commingled funds.

§ 579.418 Termination of assistance to program participants.

(a) *Termination of assistance.* The recipient or subrecipient may terminate assistance to a program participant who violates program requirements or conditions of occupancy. Termination under this section does not bar the recipient or subrecipient from providing further assistance at a later date to the same individual or family.

(b) *Due process.* In terminating assistance to a program participant, the recipient or subrecipient must provide a formal process that recognizes the rights of individuals receiving assistance to due process of law and should consider the target population of the program. This process, at a minimum, must consist of:

(1) Providing the program participant with a written copy of the program rules and the termination process before the program participant begins to receive assistance;

(2) Written notice to the program participant containing a clear statement of the reasons for termination;

(3) A review of the decision, in which the program participant is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and

(4) Prompt written notice of the final decision to the program participant.

(c) *Hard-to-house populations.* Recipients and subrecipients that are providing permanent housing with supportive services for hard-to-house populations of homeless persons must exercise judgment and examine all extenuating circumstances in determining when violations are serious enough to warrant termination so that a program participant's assistance is terminated only in the most severe cases.

§ 579.420 Conflicts of interest.

(a) *Organizational conflicts of interest.* The provision of any type or amount of assistance under this part may not be conditioned on an individual's or family's acceptance or occupancy of housing that the recipient, subrecipient, or a parent or subsidiary of the subrecipient, owns. No subrecipient, or parent or subsidiary of a subrecipient, may, with respect to individuals or families occupying housing that the subrecipient, or any parent or subsidiary of the subrecipient, owns, carry out the intake assessment.

(b) *Individual conflicts of interest.* For the procurement of goods and services, the recipient and its subrecipients must comply with the codes of conduct and conflict of interest requirements under 24 CFR 85.36 (for governments) and 24 CFR 84.42 (for private nonprofit organizations). For all other transactions and activities, the following restrictions apply:

(1) *Conflicts prohibited.* No person described in paragraph (b)(2) of this section who exercises or has exercised any functions or responsibilities with respect to activities assisted under this part, or who is in a position to participate in a decisionmaking process or gain inside information with regard to activities assisted under this part, may obtain a financial interest or benefit from an assisted activity, have a financial interest in any contract, subcontract, or agreement with respect to an assisted activity, or have a financial interest in the proceeds derived from an assisted activity, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure or during the one-year period following his or her tenure.

(2) *Persons covered.* The conflict of interest provisions of paragraph (b)(1) of this section apply to any person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient or its subrecipients.

(3) *Exceptions.* Upon the written request of the recipient, HUD may grant an exception to the provisions of this section on a case-by-case basis, taking into account the cumulative effects of the criteria in paragraph (b)(3)(ii) of this section, provided that the recipient has satisfactorily met the threshold requirements of paragraph (b)(3)(i) of this section.

(i) *Threshold requirements.* HUD will consider an exception only after the recipient has provided the following documentation:

(A) Disclosure of the nature of the conflict, accompanied by an assurance, if the recipient is a government, that there has been public disclosure of the conflict and a description of how the public disclosure was made and, if the recipient is a nonprofit, that the conflict has been disclosed in accordance with their written code of conduct or other conflict of interest policy; and

(B) An opinion from the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(ii) *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the recipient has satisfactorily met the threshold requirements under paragraph (b)(3)(i) of this section, HUD must conclude that the exception will serve to further the purposes of this program and the effective and efficient administration of the recipient's or subrecipient's project, taking into account the cumulative effect of the following factors, as applicable:

(A) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;

(B) Whether an opportunity was provided for open competitive bidding or negotiation;

(C) Whether the affected person has withdrawn from his or her functions, responsibilities or the decisionmaking process with respect to the specific activity in question;

(D) Whether the interest or benefit was present before the affected person was in the position described in paragraph (b)(1) of this section;

(E) Whether undue hardship will result to the recipient, the subrecipient or the person affected, when weighed against the public interest served by avoiding the prohibited conflict; and

(F) Any other relevant considerations.

(c) *Contractors.* All contractors of the recipient or subrecipient must comply with the same requirements that apply to subrecipients under this section.

§ 579.422 Program income.

(a) *Defined.* Program income is the income received by the recipient or subrecipient directly generated by a grant supported activity.

(b) *Use.* Program income earned during the grant term shall be retained by the recipient, and added to funds committed to the project by HUD and the recipient, and used for eligible activities in accordance with the requirements of this part. Costs incident to the generation of program income may be deducted from gross income to calculate program income, provided the costs have not been charged to grant funds.

(c) *Rent and occupancy charges.* Rents and occupancy charges collected from program participants are program income. In addition, rents and occupancy charges collected from residents of transitional housing may be reserved, in whole or in part, to assist the residents from whom they are collected to move to permanent housing.

§ 579.424 Applicability of other Federal requirements.

(a) *In general.* In addition to the requirements set forth in 24 CFR part 5, use of assistance provided under this part must comply with the following Federal requirements:

(1) *Flood Disaster Protection Act.* The Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128) prohibits the approval of applications for assistance for acquisition or construction (including rehabilitation) for supportive housing located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

(i) The community in which the area is situated is participating in the

National Flood Insurance Program (see 44 CFR parts 59 through 79), or less than a year has passed since FEMA notification regarding such hazards; and

(ii) Flood insurance is obtained as a condition of approval of the application.

(2) *National Flood Insurance Program.* Applicants with supportive housing located in an area identified by FEMA as having special flood hazards and receiving assistance for acquisition or construction (including rehabilitation) are responsible for assuring that flood insurance under the National Flood Insurance Program is obtained and maintained.

(3) *Solid Waste Disposal Act.* State agencies and agencies of a political subdivision of a State that are using assistance under this part for procurement, and any person contracting with such an agency with respect to work performed under an assisted contract, must comply with the requirements of section 6003 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. In accordance with § 6002, these agencies and persons must:

(i) Procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired in the preceding fiscal year exceeded $10,000;

(ii) Procure solid waste management services in a manner that maximizes energy and resource recovery; and

(iii) Must have established an affirmative procurement program for the procurement of recovered materials identified in the EPA guidelines.

(4) *Transparency Act Reporting.* In accordance with section 872 of the Duncan Hunter Defense Appropriations Act of 2009, including additional requirements published by the Office of Management and Budget (OMB), recipients are required to report subawards made either as pass-through awards, subrecipient awards, or vendor awards in the Federal governmentwide Web site *www.fsrs.gov* or its successor system. The reporting of award and subaward information is in accordance with the requirements of the Federal Financial Assistance Accountability and Transparency Act of 2006, as amended by section 6202 of Public Law 110–252 and in OMB Policy Guidance issues to the Federal Agencies on September 14, 2010 (75 FR 55669).

(b) *Coastal Barrier Resources Act.* The Coastal Barrier Resources Act of 1982 (16 U.S.C. 3501 *et seq.*) may apply to proposals under this part, depending on the assistance requested.

(c) *Applicability of OMB Circulars.* The requirements of 24 CFR part 85—Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments and 2 CFR Part 225—Cost Principles for State, Local, And Indian Tribal Governments (OMB Circular A–87) apply to governmental recipients and subrecipients, except where inconsistent with the provision of this part. The requirements of 24 CFR part 84—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations; 2 CFR part 230—Cost Principles for Non-Profit Organizations (OMB Circular A–122); and 2 CFR part 220—Cost Principles for Education Institutions (OMB Circular A–21) apply to nonprofit recipients and subrecipients, except where inconsistent with the provision of this part.

(d) *Lead-based paint.* The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, J, K, M, and R of this title apply to activities under this program.

(e) *Audit.* Recipients and subrecipients must comply with the audit requirements of OMB Circular A–133, ''Audits of States, Local Governments, and Non-profit Organizations.''

(f) *Davis-Bacon Act.* The provisions of the Davis-Bacon Act (40 U.S.C. 3141 *et. seq.*) do not apply to this program.

(g) *Fair Housing and Equal Opportunity.* (1) *Nondiscrimination and equal opportunity requirements.* The nondiscrimination and equal opportunity requirements set forth in 24 CFR 5.105(a) are applicable.

(2) *Housing for specific subpopulations.* Recipients and subrecipients may exclusively serve a particular homeless subpopulation in transitional or permanent housing if the housing addresses a need identified by the rural county and meets one of the following:

(i) The housing may be limited to one sex where it consists of a single structure with shared bedrooms or bathing facilities such that the considerations of personal privacy and the physical limitations of the configuration of the housing make it appropriate for the housing to be limited to one sex.

(ii) The housing may be limited to a specific subpopulation as long as admission does not discriminate against any protected class under Federal nondiscrimination laws in 24 CFR 5.105 (e.g., the housing may be limited to homeless veterans, victims of domestic violence and their children, or chronically homeless persons and families).

(iii) The housing may be limited to families with children.

(iv) If the housing has in residence at least one family with a child under the age of 18, the housing may exclude registered sex offenders and persons with a criminal record that includes a violent crime from the project so long as the child resides in the housing.

(v) Sober housing may exclude persons who refuse to sign an occupancy agreement or lease that prohibits program participants from possessing, using, or being under the influence of illegal substances and/or alcohol on the premises.

(vi) If the housing is assisted with funds under a Federal program that is limited by Federal statute or Executive Order to a specific subpopulation, the housing may be limited to that subpopulation (e.g., housing also assisted with funding from the Housing Opportunities for Persons with AIDS program, under 24 CFR part 574, may be limited to persons with acquired immunodeficiency syndrome or related diseases).

(vii) Recipients may limit admission to or provide a preference for the housing to subpopulations of homeless persons and families who need the specialized supportive services that are provided in the housing (e.g., substance abuse addiction treatment, domestic violence services, or a high intensity package designed to meet the needs of hard-to-reach homeless persons). While the housing may offer services for a particular type of disability; no otherwise eligible individuals with disabilities or families including an individual with a disability who may benefit from the services provided may be excluded on the grounds that they do not have a particular disability.

(3) *Affirmatively furthering fair housing.* A recipient must implement its programs in a manner that affirmatively furthers fair housing, which means that the recipient must:

(i) Affirmatively market their housing and supportive services to eligible persons regardless of race, color, national origin, religion, sex, age, familial status, or handicap who are least likely to apply in the absence of

special outreach, and maintain records of those marketing activities;

(ii) Where a recipient encounters a condition or action that impedes fair housing choice for current or prospective program participants, provide such information to the jurisdiction that provided the Abbreviated Consolidated Plan or Consolidated Plan; and

(iii) Provide program participants with information on rights and remedies available under applicable Federal, State and local fair housing and civil rights laws.

(4) *Accessibility and integrative housing and services for persons with disabilities.* Recipients and subrecipients must comply with the accessibility requirements of the Fair Housing Act (24 CFR part 100), Section 504 of the Rehabilitation Act of 1973 (24 CFR part 8), and titles II and III of the Americans with Disabilities Act, as applicable (28 CFR parts 35 and 36). In accordance with the requirements of 24 CFR 8.4(d), recipients must ensure their program's housing and supportive services are provided in the most integrated setting appropriate to the needs of persons with disabilities.

(5) *Prohibition against involuntary family separation.* The age and gender of a child under age 18 must not be used as a basis for denying any family's admission to a project that receives funds under this part.

(6) *Section 3.* Recipients and subrecipients must comply with Section 3 of the Housing and Urban Development Act of 1968 and its implementing regulations at 24 CFR part 135, as applicable. Section 3 requires that, to the greatest extent feasible, training, employment, contracting, and other economic opportunities will be directed to low- and very-low income persons in the area in which projects are located.

(h) *Equal participation of religious organizations in HUD programs and activities.* Requirements regarding the equal participation of religious organizations at 24 CFR 5.109 apply to programs and activities funded under this part.

Subpart F—Grant Administration

§ 579.500 Data collection requirements.

(a) *Purpose.* Recipients and subrecipients of funds under this program will be required to collect and report data using methods determined by HUD. Recipients and subrecipients may collect data in a Homeless Management Information System (HMIS) or comparable data collection system that conforms to HUD's HMIS data collection requirements as established by Notice, including a system that collects client-level data over time (i.e., longitudinal data) and generates unduplicated aggregate reports based on the data. Data collection requirements include, but are not limited to:

(1) *Participation in Homeless Management Information Systems (HMIS) or a Comparable Data Collection System.* Recipients and subrecipients electing to participate in an HMIS are required to designate an HMIS currently being operated by a Continuum of Care within the State and to contribute data to the HMIS. Recipients and subrecipients will be permitted to use program funds to pay the costs of maintaining, managing, and contributing data as set forth in § 579.228. Recipients and subrecipients should make reasonable efforts to contact a Continuum of Care to determine whether to contribute data to its existing HMIS, or whether to establish a comparable data collection system that complies with the data collection requirements of this program, and allows the collection and reporting of required data to HUD. If a recipient or subrecipient elects to use HMIS, victim service providers will not enter their data into the HMIS but must still collect data in a comparable database and be able to provide the aggregated data to the recipient for the purpose of reporting.

(2) *Point-in-time count participation.* All recipients must participate in or plan for and conduct a point-in-time count of sheltered and unsheltered homeless persons within the county within the last 10 days of January in accordance with § 579.228, or as otherwise determined by HUD, during the grant period.

(3) *Housing inventory count participation.* All recipients must perform an annual housing inventory survey and report their data to HUD, or as otherwise determined by HUD, during the grant period.

(b) [Reserved]

§ 579.502 Technical assistance.

(a) *Purpose.* The purpose of the program's technical assistance is to increase the effectiveness with which eligible recipients develop projects that effectively assist individuals and families that are homeless, at risk of homelessness, or are in the worst housing situations; improve recipients' capacity to prepare funding applications; and increase recipients' ability to gain access to other Federal resources that may be used to assist individuals and families that are homeless, at risk of homelessness, or are in the worst housing situations in rural counties.

(b) *Defined.* Technical assistance means the transfer of skills and knowledge to entities that may need, but do not possess, such skills and knowledge. The assistance may include, but is not limited to, written information such as papers, manuals, guides and brochures; person-to-person exchanges; web-based curriculums, and training and webinars and their related costs.

§ 579.504 Recordkeeping requirements.

(a) *In general.* The recipient and its subrecipients must establish and maintain standard operating procedures for ensuring that program funds are used in accordance with the requirements of this part, and must establish and maintain sufficient records to enable HUD to determine whether the recipient and its subrecipients are meeting the requirements of this part.

(b) *Homeless status.* Acceptable evidence of the homeless status is set forth in 24 CFR 576.500(b).

(c) *At risk of homelessness status.* For those recipients and subrecipients that serve persons at risk of homelessness, the recipient or subrecipient must keep records that establish ''at risk of homelessness'' status of each individual or family. Acceptable evidence is found in 24 CFR 576.500(c).

(d) *Worst housing situation.* Source documents from a certified professional, such as a licensed building inspector, verifying that one or more of the major systems in the house are failing and that it poses a health or safety risk to the family. Documentation of the source's licensure or certification must also be maintained.

(e) *Annual income.* For each program participant who receives housing assistance where rent or an occupancy charge is paid by the program participant, the recipient or subrecipient must keep the following documentation of annual income:

(1) Income evaluation form specified by HUD and completed by the recipient or subrecipient; and

(2) Source documents (e.g., wage statement, unemployment compensation statement, public benefits statement, bank statement) for the assets held by the program participant and income received before the date of the evaluation; or

(3) To the extent source documents are unobtainable, a written statement by the relevant third party (e.g., employer, government benefits administrator) or written certification by the recipient's or

subrecipient's intake staff of the oral verification by the relevant third party of the income the program participant received over the most recent period; or

(4) To the extent source documents and third party verification are unobtainable, the written certification by the program participant of the amount of income the program participant reasonably expected to receive over the three-month period following the evaluation.

(f) *Records of reasonable belief of imminent threat of harm.* For each program participant who moved to a different county due to imminent threat of further domestic violence, dating violence, sexual assault, or stalking under § 579.216, each recipient or subrecipient of assistance under this part must retain:

(1) Documentation of the original incidence of domestic violence, dating violence, sexual assault, or stalking, only if the original violence is not already documented in the program participant's case file. This may be, written observation of the housing or service provider; a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom the victim has sought assistance; medical or dental records; court records or law enforcement records; or written certification by the program participant to whom the violence occurred or by the head of household.

(2) Documentation of the reasonable belief of imminent threat of further domestic violence, dating violence, sexual assault, or stalking, which would include threats from a third-party, such as a friend or family member of the perpetrator of the violence. This may be written observation by the housing or service provider; a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom the victim has sought assistance; current restraining order, recent court order, or other court records; law enforcement reports or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts; or a written certification by the program participant to whom the violence occurred or by the head of household.

(g) *Program participant records.* In addition to evidence of ''homeless'' status, ''at risk of homelessness'' status, or ''worst housing situation'' status, as applicable, the recipient or subrecipient must keep records for each program participant that document:

(1) The services and assistance provided to that program participant, including, as applicable, the security deposit, rental assistance, and utility payments made on behalf of the program participant;

(2) Compliance with the applicable requirements for providing those services and assistance to that program participant under the eligible activities provisions at § 579.202 through § 579.230, and the provision on determining eligibility and amount and type of assistance at § 579.200; and

(3) In the case of program participants in the worst housing situations that received assistance in the form of repairs and rehabilitation to participant-owned housing, records demonstrating that the program participants are complying with the 3-year residency requirement. Participants or subrecipients are also required to maintain copies of the repayment agreements on file that these program participants are required to enter under § 579.220.

(h) *Subsidy layering.* The recipient must keep records indicating other sources of governmental assistance that the applicant has received, or reasonably expects to receive, in accordance with § 579.104.

(i) *Match.* The recipient and subrecipient must keep copies of the Memorandums of Understanding or Memorandums of Agreement with third parties and records of the source and use of contributions made to satisfy the matching requirement in § 579.402. The records must show how the value placed on third-party noncash contributions was derived. To the extent feasible, volunteer services must be supported by the same methods that the organization uses to support the allocation of regular personnel costs.

(j) *Conflicts of interest.* The recipient and its subrecipients must keep records to show compliance with the organizational conflicts of interest requirements in § 579.420, a copy of the personal conflicts of interest policy developed and implemented to comply with the requirements in § 579.420, and records supporting exceptions to the personal conflicts of interest prohibitions.

(k) *Faith-based activities.* The recipient and its subrecipients must document their compliance with the faith-based activities requirements under § 579.416(c), as applicable.

(l) *Other Federal requirements.* The recipient and its subrecipients must document their compliance with the Federal requirements in § 579.424, as applicable, including:

(1) Participants in the programs administered by the Department shall furnish to the Department such data concerning the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are applicants for, program participants in, or beneficiaries or potential beneficiaries of those programs, as the Secretary may determine to be necessary or appropriate to enable him or her to carry out his or her responsibilities under the authorities referred to in 24 CFR 121.1.

(2) Copies of their marketing, outreach, and other materials used to inform eligible persons of the program to document compliance with the requirements in § 579.424(g)(3).

(3) Records demonstrating compliance with the administrative requirements in 24 CFR part 85 (for governments) and 24 CFR part 84 (for nonprofit organizations).

(4) Records demonstrating compliance with the environmental review requirements in this part, including flood insurance requirements.

(5) Records demonstrating compliance with the lead-based paint requirements in this part.

(6) Records demonstrating compliance with the debarment and suspension requirements under 2 CFR part 180 and 2 CFR part 2424.

(7) Records concerning intergovernmental review, as applicable, as required by this part.

(8) Certifications and disclosure forms required under the lobbying and disclosure requirements in 24 CFR part 87.

(m) *Credible evidence for relocation assistance.* (1) Recipients and subrecipients must maintain sufficient documentation of program participants' eligibility for relocation assistance.

(2) Program participants seeking relocation assistance in the event of a permanent move out of the assisting county, under § 579.204, must provide the recipient or subrecipients credible evidence to document and justify their move as a result of one of the following:

(i) Securing employment;

(ii) Enrollment in school/educational opportunities; or

(iii) Family reunification.

(3) Credible evidence is an oral or written statement documenting employment, enrollment in school/educational opportunities, and/or family reunification. The credible evidence must also contain a plan for how program participants will maintain self-sufficiency.

(n) *Financial records.* (1) The recipient must retain supporting documentation for all costs charged to the Rural Housing Stability Assistance Program grant in accordance with 24 CFR 85.20 and 24 CFR 84.21, including records demonstrating that any pre-award costs charged to the recipient's grant meet the requirements of this part and are reimbursable.

(2) The recipient and its subrecipients must keep documentation showing that Rural Housing Stability Assistance Program grant funds were spent on allowable costs in accordance with the requirements for eligible activities under § 579.202 through § 579.230 and the cost principles in OMB Circulars A–87 (2 CFR part 225) and A–122 (2 CFR part 230).

(3) The recipient and its subrecipients must retain records of the receipt and use of program income.

(o) *Subrecipients and contractors.* (1) The recipient must retain copies of all solicitations of and agreements with subrecipients, records of all payment requests by and dates of payments made to subrecipients, documentation of subrecipient monitoring schedules, all monitoring performed, and all sanctions imposed on subrecipients, as applicable.

(2) The recipient and its subrecipients must retain copies of all procurement contracts and documentation of compliance with the procurement requirements in 24 CFR 85.36 and 24 CFR 84.40–84.48.

(3) The recipient's subrecipients must comply with the recordkeeping requirements specified by the recipient and HUD notice or regulations.

(p) *Property standards.* Records (e.g., inspection reports) demonstrating that each project assisted with funds under this program meets the applicable property standards and building codes at project completion.

(q) *Construction records.* The recipients and its subrecipients must maintain records of all construction plans, drawings, renderings, and specifications outlining estimated project costs and expenses.

(r) *Rehabilitation records.* The recipients and its subrecipients must maintain records demonstrating compliance with all Federal, State, and local laws, including property standards and lead-based paint requirements.

(s) *Data Collection.* As specified in § 579.500, data on all persons served and all activities assisted under this program must be collected in HMIS or a comparable data collection system. The recipient must keep records of the participation in HMIS or the comparable data collection system by all programs of the recipient and its subrecipients.

(t) *Other records specified by HUD.* The recipient and subrecipients must keep other records specified by HUD.

(u) *Confidentiality.* (1) The recipient and its subrecipients must develop and implement procedures to ensure:

(i) All records containing personally identifying information, as defined in HUD's standards for participation, data collection, and reporting in a local HMIS or data collection system, of any individual or family who applies for and/or receives assistance under this program will be kept secure and confidential;

(ii) The address or location of any domestic violence, dating violence, sexual assault, or stalking shelter project assisted under this program will not be made public, except with written authorization of the person responsible for the operation of the shelter; and

(iii) The address or location of any housing of a program participant will not be made public, except as provided under a preexisting privacy policy of the recipient or subrecipient and consistent with State and local laws regarding privacy and obligations of confidentiality.

(2) The confidentiality procedures of the recipient and its subrecipients must be in writing and must be maintained in accordance with this section.

(v) *Period of record retention.* All records pertaining to each fiscal year of program funds must be retained for the greater of 5 years or the period specified below. Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.

(1) Documentation of each program participant's qualification as a family or individual at risk of homelessness or as a homeless family or individual and other program participant records must be retained for 5 years after the expenditure of all funds from the grant under which the program participant was served; and

(2) Where program funds are used for the acquisition, new construction, or rehabilitation of a project site, records must be retained until 15 years after the date that program funds are first obligated for the acquisition, new construction, and rehabilitation.

(w) *Access to records*–(1) *Federal Government rights.* Notwithstanding the confidentiality procedures established under paragraph (s) of this section, HUD, the HUD Office of the Inspector General, and the Comptroller General of the United States, or any of their authorized representatives, have the right of access to all books, documents, papers, or other records of the recipient and its subrecipients that are pertinent to the program grant, in order to make audits, examinations, excerpts, and transcripts. This right of access is not limited to the required retention period but lasts as long as the records are retained.

(2) *Public rights.* The recipient must provide citizens, public agencies, and other interested parties with reasonable access (consistent with State and local laws regarding privacy and obligations of confidentiality and the confidentiality requirements in this part) to records regarding any uses of program funds the recipient received during the preceding 5 years.

(x) *Obligation.* The recipient must retain records to indicate the obligation of its funds within the requisite 2-year obligation period.

§ 579.506 Grant changes.

(a) *HUD approval for significant changes.* Recipients and subrecipients may not make any significant programmatic or budget changes without prior HUD approval, evidenced by an amendment to the grant agreement that has been signed by HUD and the recipient. Significant changes include a shift in a single year of more than 10 percent of the total amount awarded under the grant for one approved, eligible activity to another activity, and a change of subpopulations. To be approved, the recipient must be able to demonstrate that the change is necessary to better serve eligible persons within the geographic area and is consistent with the recipient's approved consolidated plan or abbreviated consolidated plan. If an amendment would adversely impact the score the application received on any selection criterion used in the year in which the grant was awarded, HUD will disapprove the amendment.

(b) *Documentation of changes not requiring a grant amendment.* Any changes to an approved grant other than changes outlined in paragraph (a) of this section must be fully documented in the recipient's or subrecipient's records.

§ 579.508 Enforcement.

(a) *Performance reviews.* (1) HUD will review the performance of each recipient in carrying out its responsibilities under this part whenever determined necessary by HUD, but at least annually. In conducting performance reviews, HUD will rely primarily on information obtained from the records and reports from the recipient and, when appropriate, its subrecipients, as well as information from on-site monitoring, and from audit reports. Where applicable, HUD may also consider relevant information pertaining to the

recipient's performance gained from other sources, including citizen comments, complaint determinations, and litigation. Reviews to determine compliance with specific requirements of this part will be conducted as necessary, with or without prior notice to the recipient.

(2) If HUD determines preliminarily that the recipient or one of its subrecipients has not complied with a program requirement, HUD will give the recipient notice of this determination and an opportunity to demonstrate, within the time prescribed by HUD and on the basis of substantial facts and data that the recipient has complied with all program requirements. HUD may change the method of payment to require the recipient to obtain HUD's prior approval each time the recipient requests payment of grant funds. To obtain prior approval, the recipient may be required to manually submit its payment requests and supporting documentation to HUD in order to show that the funds to be drawn down will be expended on eligible activities in accordance with all program requirements.

(3) If the recipient fails to demonstrate to HUD's satisfaction that the activities were carried out in compliance with program requirements, HUD will notify the recipient of its determination of noncompliance and the reasons for that determination. Upon such notification, HUD may take one or more of the remedial actions or sanctions specified in paragraph (b) of this section.

(b) *Remedial actions and sanctions.* Remedial actions and sanctions for a failure to meet a program requirement will be designed to prevent a continuation of the deficiency; mitigate, to the extent possible, its adverse effects or consequences; and prevent its recurrence.

(1) HUD may instruct the recipient to submit and comply with proposals for action to correct, mitigate, and prevent noncompliance with program requirements, including:

(i) Preparing and following a schedule of actions for carrying out activities affected by the noncompliance, including schedules, timetables, and milestones necessary to implement the affected activities;

(ii) Establishing and following a management plan that assigns responsibilities for carrying out the remedial actions;

(iii) Canceling activities likely to be affected by the noncompliance, before expending program funds for the activities;

(iv) Suspending disbursement of program funds for some or all activities;

(v) Reducing or terminating the remaining grant of a subrecipient and reallocating those funds to other subrecipients; and

(vi) Making matching contributions before or as draws are made from the recipient's Rural Housing Stability Assistance Program grant.

(2) HUD may change the method of payment to a reimbursement basis.

(3) HUD may suspend payments to the extent HUD determines necessary to preclude the further expenditure of funds for affected activities.

(4) HUD may deny matching credit for all or part of the cost of the affected activities and require the recipient to make further matching contributions to make up for the contribution determined to be ineligible.

(5) HUD may require the recipient to reimburse its line of credit in an amount equal to the funds used for the affected activities.

(6) HUD may reduce or terminate the remaining grant of a recipient.

(7) HUD may take other remedies that are legally available.

§ 579.510 Closeout.

(a) *In general.* Grants will be closed out in accordance with the requirements of 24 CFR parts 84 and 85, as applicable, and closeout procedures established by HUD.

(b) *Reports.* Applicants must submit all reports required by HUD no later than 90 days from the date of the end of the operating year, and as HUD deems necessary.

(c) *Closeout agreement.* Any obligations remaining as of the date of the closeout must be covered by the terms of a closeout agreement. The agreement will be prepared by HUD in consultation with the recipient. The agreement must identify the grant being closed out, and include provisions with respect to the following:

(1) Identification of any closeout costs or contingent liabilities subject to payment with program funds after the closeout agreement is signed;

(2) Identification of any unused grant funds to be deobligated by HUD;

(3) Identification of any program income on deposit in financial institutions at the time the closeout agreement is signed;

(4) Description of the recipient's responsibility after closeout for:

(i) Compliance with all program requirements in using program income on deposit at the time the closeout agreement is signed and in using any other remaining program funds available for closeout costs and contingent liabilities;

(ii) Use of real property assisted with program funds in accordance with the affordability and use requirement;

(iii) Use of personal property purchased with program funds; and

(iv) Compliance with requirements governing program income received subsequent to grant closeout.

(5) Other provisions appropriate to any special circumstances of the grant closeout, in modification of or in addition to the obligations in paragraphs (c) of this section. The agreement shall provide that findings of noncompliance may be taken into account by HUD as unsatisfactory performance of the recipient, in consideration of any future grant award under this part.

Dated: February 28, 2013.

Mark Johnston,

Deputy Assistant Secretary for Special Needs Programs.

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