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WHEN: Tuesday, April 9, 2013
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
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Washington, DC 20002

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Rules and Regulations

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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.

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

DEPARTMENT OF AGRICULTURE

Office of Procurement and Property Management

7 CFR Part 3201

RIN 0599–AA16

Designation of Product Categories for Federal Procurement; Withdrawal

AGENCY: Office of Procurement and Property Management, Departmental Management, USDA.

ACTION: Final rule; withdrawal.

SUMMARY: The U.S. Department of Agriculture (USDA) is withdrawing the final rule ''Designation of Product Categories for Federal Procurement'' published April 1, 2013, at 78 FR 19393. The final rulemaking, which amended the Guidelines for Designating Biobased Products for Federal Procurement, to add eight sections to designate product categories within which biobased products will be afforded Federal procurement preference, was published prematurely due to an oversight in the development process.

DATES: The final rule published April 1, 2013 (78 FR 19393) is withdrawn effective April 8, 2013.

FOR FURTHER INFORMATION CONTACT: Ron Buckhalt, USDA, Office of Procurement and Property Management, Room 361, Reporters Building, 300 7th St. SW., Washington, DC 20024; email: *biopreferred@usda.gov;* phone (202) 205–4008. Please cite ''7 CFR Part 3201, RIN 0599–AA16'' in all correspondence.

SUPPLEMENTARY INFORMATION: On April 1, 2013, USDA published a final rule, to be effective May 1, 2013, amending the Guidelines for Designating Biobased Products for Federal Procurement, to add eight sections to designate product categories within which biobased products will be afforded Federal procurement preference, as provided for under section 9002 of the Farm Security and Rural Investment Act of 2002, as amended by the Food, Conservation, and Energy Act of 2008. The rule also adds a new subcategory to one previously designated product category and establishes minimum biobased contents for each of these product categories and subcategories. The rule also changes the term ''item'' to product category.

Due to an oversight in the development process, USDA published the final rule prematurely and, therefore, is withdrawing it. OPPM anticipates republishing the rulemaking in the coming months.

Signed in Washington, DC, on April 1, 2013.

Lisa M. Wilusz,

Director, Office of Procurement and Property Management.

[FR Doc. 2013–08026 Filed 4–5–13; 8:45 am]

BILLING CODE 3410–93–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 30895; Amdt. No. 506]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: Effective 0901 UTC, May 2, 2013.

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

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

The Rule

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

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the nticipated

impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC, on March 29, 2013.

John M. Allen,

Deputy Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, May 2, 2013.

PART 95 [AMENDED]

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

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

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

REVISIONS TO IFR ALTITUDES § CHANGEOVER POINTS

[Amendment 506 effective date May 02, 2013]

From	To	MEA
§ 95.6001 Victor Routes-U.S.		
§ 95.6001 VOR Federal Airway V1 Is Amended To Read in Part		
ASHES, NC FIX	YOAST, NC FIX	*5000
*2100—MOCA		
YOAST, NC FIX	WALLO, NC FIX	*7000
*1600—MOCA		
WALLO, NC FIX	KINSTON, NC VORTAC	
	NE BND	2000
	SW BND	7000
§ 95.6002 VOR Federal Airway V2 Is Amended To Read in Part		
*SEATTLE, WA VORTAC	VAMPS, WA FIX	
	E BND	**8400
	W BND	**4000
*4300—MCA SEATTLE, WA VORTAC, E BND		
**3100—MOCA		
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	E BND	*8400
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BANDR, WA FIX	*BEEZR, WA FIX	8400
*9000—MRA		
§ 95.6003 VOR Federal Airway V3 Is Amended To Read in Part		
DOLPHIN, FL VORTAC	FORT LAUDERDALE, FL VOR/DME	2100
FORT LAUDERDALE, FL VOR/DME	PALM BEACH, FL VORTAC	#2000
#FORT LAUDERDALE R–013 UNUSABLE, USE PALM BEACH R–190		
§ 95.6004 VOR Federal Airway V4 Is Amended To Read in Part		
LOFAL, WA FIX	*SEATTLE, WA VORTAC	**4000
*6200—MCA SEATTLE, WA VORTAC, E BND		
**2800—MOCA		
SEATTLE, WA VORTAC	BLAKO, WA FIX	
	E BND	*10000
	W BND	*4000
*3100—MOCA		
BLAKO, WA FIX	HUMPP, WA FIX	
	E BND	*10000
	W BND	*6600
*6600—MOCA		
§ 95.6025 VOR Federal Airways V25 Is Amended To Read in Part		
SALINAS, CA VORTAC	SANTY, CA FIX	*5000
*4000—MOCA		
WOODSIDE, CA VORTAC	SAN FRANCISCO, CA VOR/DME	4700
§ 95.6029 VOR Federal Airways V29 Is Amended To Read in Part		
DUPONT, DE VORTAC	MODENA, PA VORTAC	*3000
*1800—MOCA		

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*2000—GNSS MEA		
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JUNCTION, TX VORTAC	CENTER POINT, TX VORTAC	4000
CENTER POINT, TX VORTAC	SAN ANTONIO, TX VORTAC	4100
§ 95.6087 VOR Federal Airways V87 Is Amended To Read in Part		
PANOCHE, CA VORTAC	SALINAS, CA VORTAC	6200
SALINAS, CA VORTAC	SANTY, CA FIX	*5000
*4000—MOCA		
WOODSIDE, CA VORTAC	SAN FRANCISCO, CA VOR/DME	4700
§ 95.6088 VOR Federal Airways V88 Is Amended To Read in Part		
NARCI, OK FIX	*WACCO, MO FIX	**6200
*3700—MRA		
*6200—MCA WACCO, MO FIX, SW BND		
**3100—MOCA		
**4000—GNSS MEA		
*WACCO, MO FIX	*QUALM, MO FIX	**3700
*3700—MRA		
**3000—MOCA		
QUALM, MO FIX	*MIRTH, MO FIX	3000
*3700—MRA		
*MIRTH, MO FIX	SPRINGFIELD, MO VORTAC	3000
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§ 95.6094 VOR Federal Airways V94 Is Amended To Read in Part		
BYPAS, TX FIX	*HYMAN, TX FIX	**6000
*5000—MRA		
**4400—MOCA		
*HYMAN, TX FIX	TUSCOLA, TX VOR/DME	**7500
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*4600—MCA PLATTSBURGH, NY VORTAC, NW BND		
**6100—MOCA		
**6100—GNSS MEA		
PLATTSBURGH, NY VORTAC	*BURLINGTON, VT VOR/DME	2600
*5000—MCA BURLINGTON, VT VOR/DME, SE BND		
BURLINGTON, VT VOR/DME	MONTPELIER, VT VOR/DME	6300
MONTPELIER, VT VOR/DME	AYZOO, NH FIX	5400
AYZOO, NH FIX	BERLIN, NH VOR/DME	*7000
*6400—MOCA		
§ 95.6124 VOR Federal Airways V124 Is Amended To Read in Part		
HOT SPRINGS, AR VOR/DME	LITTLE ROCK, AR VORTAC	3000
§ 95.6168 VOR Federal Airways V168 Is Amended To Read in Part		
MILER, AL FIX	WIREGRASS, AL VORTAC	*6000
*2400—MOCA		
*3000—GNSS MEA		
§ 95.6170 VOR Federal Airways V170 Is Amended To Read in Part		
MODENA, PA VORTAC	DUPONT, DE VORTAC	*3000
*1800—MOCA		
*2000—GNSS MEA		
§ 95.6184 VOR Federal Airways V184 Is Amended To Read in Part		
HARRISBURG, PA VORTAC	*DELRO, PA FIX	3000
*10000—MRA		

REVISIONS TO IFR ALTITUDES § CHANGEOVER POINTS—Continued

[Amendment 506 effective date May 02, 2013]

From	To	MEA
§ 95.6190 VOR Federal Airways V190 Is Amended To Read in Part		
MITBEE, OK VORTAC	CARON, OK FIX	
	SW BND	*5000
	NE BND	*8000
*3700—MOCA		
CARON, OK FIX	FIRET, OK FIX	*8000
*2800—MOCA		
FIRET, OK FIX	PIONEER, OK VORTAC	
	E BND	3000
	W BND	8000
BARTLESVILLE, OK VOR/DME	OSWEGO, KS VORTAC	2700
OSWEGO, KS VORTAC	*WACCO, MO FIX	3100
*3700—MRA		
WACCO, MO FIX	*QUALM, MO FIX	**3700
*3700—MRA		
**3000—MOCA		
QUALM, MO FIX	*MIRTH, MO FIX	3000
*3700—MRA		
MIRTH, MO FIX	SPRINGFIELD, MO VORTAC	3000
§ 95.6216 VOR Federal Airways V216 Is Amended To Read in Part		
SAGINAW, MI VOR/DME	PECK, MI VORTAC	3000
PECK, MI VORTAC	U.S. CANADIAN BORDER	*5000
*2200–MOCA		
§ 95.6234 VOR Federal Airways V234 Is Amended To Read in Part		
FLACK, KS FIX	KRIER, KS FIX	*5000
*4000—MOCA		
KRIER, KS FIX	BYWAY, KS FIX	*7100
*4000—MOCA		
BYWAY, KS FIX	GABIE, KS FIX	*4300
*3600—MOCA		
GABIE, KS FIX	HUTCHINSON, KS VOR/DME	3800
§ 95.6241 VOR Federal Airways V241 Is Amended To Read in Part		
WIREGRASS, AL VORTAC	EUFAULA, AL VORTAC	*3000
*2000—MOCA		
*WIREGRASS R–019 UNSABLE BELOW 6000 USE EUFAULA R–199		
§ 95.6267 VOR Federal Airways V267 Is Amended To Read in Part		
PAHOKEE, FL VORTAC	DIDDY, FL FIX	*2000
*1500—MOCA		
DIDDY, FL FIX	ORLANDO, FL VORTAC	2700
§ 95.6269 VOR Federal Airways V269 Is Amended To Read in Part		
WELLS, NV VOR	*TWIN FALLS, ID VORTAC	**13000
*7700—MCA TWIN FALLS, ID VORTAC, S BND		
**11000—MOCA		
**11000—GNSS MEA		
§ 95.6276 VOR Federal Airways V276 Is Amended To Read In Part		
*HIKES, PA FIX	YARDLEY, PA VOR/DME	**4000
*4000—MRA		
**2400—MOCA		
§ 95.6295 VOR Federal Airways V295 Is Amended To Read in Part		
TREASURE, FL VORTAC	BAIRN, FL FIX	2600
BAIRN, FL FIX	ORLANDO, FL VORTAC	2700
§ 95.6298 VOR Federal Airways V298 Is Amended To Read in Part		
*SEATTLE, WA VORTAC	VAMPS, WA FIX	
	W BND	**4000

REVISIONS TO IFR ALTITUDES § CHANGEOVER POINTS—Continued

[Amendment 506 effective date May 02, 2013]

From	To	MEA
	E BND	**8400
*4300—MCA SEATTLE, WA VORTAC, E BND		
**3100—MOCA		
**5300—GNSS MEA		
VAMPS, WA FIX	BANDR, WA FIX	
	E BND	*8400
	W BND	*7700
*7700—GNSS MEA		
BANDR, WA FIX	*BEEZR, WA FIX	8400
*9000—MRA		
§ 95.6392 VOR Federal Airways V392 Is Amended To Read in Part		
SACRAMENTO, CA VORTAC	ROZZY, CA FIX	*3500
*2300—MOCA		
§ 95.6474 VOR Federal Airways V474 Is Amended To Read in Part		
NOENO, PA FIX	*DELRO, PA FIX	**5000
*10000—MRA		
**3400—MOCA		
**3400—GNSS MEA		
§ 95.6479 VOR Federal Airways V479 Is Amended To Read in Part		
DUPONT, DE VORTAC	WILJR, NJ FIX	2100
WILJR, NJ FIX	MENGE, NJ FIX	*4000
*1600—MOCA		
*2000—GNSS MEA		
MENGE, NJ FIX	YARDLEY, PA VOR/DME	2000
§ 95.6494 VOR Federal Airways V494 Is Amended To Read in Part		
SANTA ROSA, CA VOR/DME	*RAGGS, CA FIX	5100
*8500—MRA		
*RAGGS, CA FIX	SACRAMENTO, CA VORTAC	5100
*8500—MRA		
SACRAMENTO, CA VORTAC	ROZZY, CA FIX	*3500
*2300—MOCA		
§ 95.6531 VOR Federal Airways V531 Is Amended To Read in Part		
*SHEDS, FL FIX	**BAIRN, FL FIX	***6000
*3000—MRA		
**6000—MCA BAIRN, FL FIX, SE BND		
**2000—MOCA		
BAIRN, FL FIX	ORLANDO, FL VORTAC	2700
§ 95.6537 VOR Federal Airways V537 Is Amended To Read in Part		
CERMO, FL FIX	OCALA, FL VORTAC	
	NW BND	2000
	SE BND	8000
§ 95.6573 VOR Federal Airways V573 Is Amended To Read in Part		
HOT SPRINGS, AR VOR/DME	LITTLE ROCK, AR VORTAC	3000

§ 95.7001 Jet Routes
§ 95.7037 Jet Route J37 Is Amended To Read in Part

SPARTANBURG, SC VORTAC	LYNCHBURG, VA VORTAC	#

Airway segment		Changeover points	
From	To	Distance	From
§ 95.8003 VOR Federal Airways Changeover Points V124 Is Amended To Add Changeover Point			
HOT SPRINGS, AR VOR/DME	LITTLE ROCK, AR VORTAC	14	HOT SPRINGS

Airway segment		Changeover points	
From	To	Distance	From
V187 Is Amended To Modify Changeover Point			
MISSOULA, MT VOR/DME	NEZ PERCE, ID VOR/DME	30	MISSOULA
V2 Is Amended To Add Changeover Point			
ELLENSBURG, WA VORTAC	MOSES LAKE, WA VOR/DME	28	ELLENSBURG
V290 Is Amended To Delete Changeover Point			
TAR RIVER, NC VORTAC	PAMLICO/DCMSND, NC NDB/DME	44	TAR RIVER
V494 Is Amended To Add Changeover Point			
SANTA ROSA, CA VOR/DME	SACRAMENTO, CA VORTAC	25	SANTA ROSA
ALASKA V317 Is Amended To Modify Changeover Point			
ANNETTE ISLAND, AK VOR/DME ISLAND	LEVEL ISLAND, AK VOR/DME	64	ANNETTE
LEVEL ISLAND, AK VOR/DME	SISTERS ISLAND, AK VORTAC	74	LEVEL ISLAND

UNUSABLE.

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 3 and 23

RIN 3038–AD66

Dual and Multiple Associations of Persons Associated With Swap Dealers, Major Swap Participants and Other Commission Registrants

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is adopting regulations to make clear that each swap dealer (SD), major swap participant (MSP), and other Commission registrant with whom an associated person (AP) is associated is required to supervise the AP and is jointly and severally responsible for the activities of the AP with respect to customers common to it and any other SD, MSP or other Commission registrant.

DATES: Effective June 7, 2013.

FOR FURTHER INFORMATION CONTACT: Israel J. Goodman, Special Counsel, or Barbara S. Gold, Associate Director, Division of Swap Dealer and Intermediary Oversight, 1155 21st Street NW., Washington, DC 20581. Telephone number: 202–418–6700 and electronic mail: *igoodman@cftc.gov* or *bgold@cftc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

On July 21, 2010, President Obama signed the Dodd-Frank Act.[1] Section 731 of the Dodd-Frank Act amended the Commodity Exchange Act (CEA)[2] by adding Section 4s, which, among other things, prohibits any person from acting as a ''swap dealer'' or ''major swap participant'' unless the person is registered with the Commission.[3] To effectuate the Congressional directive that an SD or MSP apply for registration in such form and manner as prescribed by the Commission,[4] on November 23, 2010, the Commission proposed regulations to establish a registration process for SDs and MSPs (Proposed Registration Regulations),[5] and on January 19, 2012, the Commission adopted regulations that establish a registration process for SDs and MSPs (Final Registration Regulations).[6]

Although APs of other Commission registrants are generally required to register with the Commission,[7] APs of SDs and MSPs[8] are not required to register as such.[9] However, an SD or MSP is prohibited from permitting any

[1] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111–203, 124 Stat. 1376 (2010). The text of the Dodd-Frank Act may be accessed through the Commission's Web site, *http://www.cftc.gov*.

[2] 7 U.S.C. 1 *et seq.* (2006). The Commission's regulations are found at 17 CFR Part 1 *et seq.* (2012). Both the CEA and the Commission's regulations also may be accessed through the Commission's Web site.

[3] CEA Section 4s(a).

[4] CEA Section 4s(b).

[5] 75 FR 71379.

[6] 77 FR 2613. Concurrently, through a separate Notice and Order, the Commission delegated to the National Futures Association (NFA) the authority to perform the full range of registration functions with respect to SDs and MSPs. 77 FR 2708 (Jan. 19, 2012).

Subsequently, the Commission issued regulations that further define the terms ''swap dealer'' and ''major swap participant.'' 77 FR 30596 (May 23, 2012). In this regard, the Commission notes that pursuant to CEA Section 1a(49)(D), CFTC Regulation 1.3(ggg)(4) establishes a *de minimis* exception from the SD definition, thereby allowing a person who otherwise meets the criteria for being an SD to engage in a certain amount of swap dealing activity without being required to register as an SD. If a person exceeds the *de minimis* amount of swap dealing at the effective date of the swap definition, then CFTC Regulation 1.3(ggg)(4)(iii) provides that the person must register as an SD by no later than two months from the end of the month in which it exceeded the *de minimis* threshold, i.e., December 31, 2012. Similarly, the definition of MSP in CFTC Regulation 1.3(hhh)(3) generally requires a person that meets the MSP definition as a result of its swaps activity in a fiscal quarter to register as an MSP no later than two months after the end of that quarter, with the earliest possible date by which the person should be registered as an MSP being February 28, 2013 (i.e., two months from the quarter end on December 31, 2012).

[7] *See, e.g.,* CEA Section 4k and Commission Regulation 3.12(a). Regulation 3.12(c) provides that application is made through the filing of a Form 8–R, accompanied by a specified certification from the registrant who will be employing the AP—i.e., the AP's sponsor.

[8] As is the case for other categories of Commission registrants, the term ''associated person,'' when used with respect to an SD or MSP, means a natural person (as opposed to an entity, such as a partnership or corporation). *See* Regulation 1.3(aa)(6) for a definition of the term ''associated person'' of an SD or MSP to mean a natural person who is associated with an SD or MSP as a partner, officer, employee, agent (or any natural person occupying a similar status or performing similar functions), in any capacity that involves the solicitation or acceptance of swaps (other than in a clerical or ministerial capacity); or the supervision of any person or persons so engaged.

[9] Section 731 did not direct the Commission to adopt regulations that provide for the registration of APs of SDs and MSPs, and, thus, the Commission has not done so. *See* 77 FR at 2613.

person associated with it to effect or be involved in effecting swaps on its behalf if such person is subject to a statutory disqualification.[10]

B. The Proposed Regulations

The Commission adopted the Final Registration Regulations after considering the comments it received from the public on the Proposed Registration Regulations. One commenter recommended that the Commission expand the scope of the provisions on dual and multiple associations in Regulation 3.12(f), or adopt a new regulation, ''to address the situations in which an individual conducts swaps-related activity on behalf of more than one Swap Entity [i.e., an SD and/or MSP] or conducts swaps activity on behalf of a Swap Entity and is also registered as an AP of a different firm.'' [11] When adopting the Final Registration Regulations, the Commission stated that ''[w]hile the Commission agrees with the commenter's recommendation, it anticipates promptly addressing this issue in a future rulemaking.'' [12]

Regulation 3.12(f)(1)(i) permits dual and multiple associations of a person *registered* as an AP.[13] Regulation 3.12(f)(1)(iii) provides that each sponsor [14] of the AP is required to supervise the AP, and that each sponsor is jointly and severally responsible for the AP's activities with respect to any customers common to it and any other sponsor with which the AP is associated.[15] This joint and several responsibility provision is intended to prevent situations where each sponsor might disclaim responsibility for the AP's activities—that is, that each sponsor would claim that the dually associated AP was not acting on its behalf but, rather, for the other sponsor, and therefore the other sponsor should be held responsible for the conduct in question.[16] However, because, as noted above, the Commission has not adopted regulations requiring the registration of APs of SDs and MSPs, the provisions of Regulation 3.12(f)(1), which apply to a sponsoring registrant with respect to its APs who are registered or seeking to register as such, do not apply to SDs and MSPs and their APs.

To address this issue, on June 15, 2012, the Commission proposed amendments to Regulation 3.12(f) and Regulation 23.22 (Proposal) to provide that an AP of an SD or MSP may associate with one or more other SDs, MSPs or other Commission registrants (i.e., FCMs, retail foreign exchange dealers (RFEDs), IBs, CTAs, CPOs, and LTMs), and that each SD, MSP or other Commission registrant with whom the AP is associated is required to supervise the AP and is jointly and severally responsible for the conduct of the AP with respect to customers common to it and any other SD, MSP or other Commission registrant with whom the AP is associated.[17]

II. Comments on the Proposal

In the Proposal, the Commission requested comment on all aspects of the Proposal and, in particular, on whether it should adopt a provision (in both new Regulation 3.12(f)(5) and new Regulation 23.22(c)) that would provide a mechanism to notify SDs, MSPs and existing sponsors of registered APs when one of their APs seeks to become associated with another SD or MSP (or, in the case of an AP of an SD or MSP, seeks to register as an AP of another Commission registrant).[18]

The Commission received one comment letter on the Proposal. The letter supported the Proposal, stating that:

> [The] proposal will help to ensure that SDs, MSPs and other Commission registrants do not avoid supervision of and responsibility for the activities of their APs with such dual or multiple associations; increase transparency of lines of responsibility and promote accountability thereon; improve internal consistency with the other Commission regulations pertaining to such dual or multiple associations; and improve protection for both market participants and the public by obligating each SD, MSP or other Commission registrant to supervise its APs who have such dual or multiple associations.[19]

The comment letter also supported the adoption of a regulation that would provide a mechanism to notify SDs, MSPs and existing sponsors of registered APs when one of their APs seeks to become associated with another SD or MSP. After further considering this issue, the Commission has determined not to adopt such a regulation. The Commission believes

[10] *See* CEA Section 4s(b)(6) and Regulation 23.22(b).

[11] Comment letter from the National Futures Association at page 10 (Jan. 24, 2011).

[12] 77 FR at 2616.

[13] Regulation 3.12(f)(1)(i) provides that a person who is already registered as an AP in any capacity may become associated with another sponsor if the new sponsor files with the NFA a Form 8–R.

[14] The term ''sponsor'' is defined in Regulation 3.1(c) to mean ''the futures commission merchant, retail foreign exchange dealer, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant which makes the certification required by § 3.12 of [Part 3] for the registration of an associated person of such sponsor.''

[15] The Commission adopted this joint and several responsibility provision in 1992 in connection with amendments to Regulation 3.12(f) that eliminated then-existing restrictions on dual and multiple associations in many circumstances. 57 FR 23136 (June 2, 1992) (1992 Amendments). The Commission first adopted a prohibition on dual and multiple associations in 1980, with respect to APs of futures commission merchants (FCMs), explaining that it was necessary ''[i]n view of the obvious difficulties of supervision in such a situation and in view of the inherent possibilities for conflicts of interest that might arise if an AP were to have more than one sponsor.'' 45 FR 80485, 80489 (Dec. 5, 1980) (footnote omitted).

Subsequently, the Commission amended and broadened the scope of Regulation 3.12(f) such that, prior to the 1992 Amendments, Regulation 3.12(f) prohibited a person from associating as an AP with: (1) MORe than one FCM or more than one introducing broker (IB); (2) an FCM and an IB or a leverage transaction merchant (LTM); and (3) an IB and an LTM. Subject to certain exceptions, the regulations also prohibited a person from associating as an AP with: (1) An FCM and a commodity trading advisor (CTA); (2) an FCM and a commodity pool operator (CPO); (3) an IB and a CTA; and (4) an IB and a CPO. *See* 56 FR 37026, 37033 (Aug. 2, 1991). In proposing to eliminate most of these restrictions, the Commission explained that, in its experience, these regulations had been ''difficult to understand and follow, even for experienced practitioners'' and that, in certain cases, they could have perverse effects, such as limiting the choice of which FCM a customer could use to carry his managed account. *Id.* Moreover, the Commission explained, the concerns raised by dual and multiple associations could be better addressed through an alternative approach, as further discussed below. *Id.*

[16] *See* 56 FR at 37033; *see, e.g., In Re Global Telecom, et al.,* [2005–2007 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 30,143 (CFTC Oct. 4, 2005) (holding an FCM liable for the activities of its APs who were also APs of a CTA, and noting that holding otherwise would ''bring about the very situation the rule is aimed at preventing—one in which a futures customer who contracts with two entities to receive two products or services is left with nobody minding the store'').

[17] 77 FR 35892.

[18] Under Regulation 3.12(f)(1), a person registered as an AP may become an AP of another sponsor if the new sponsor files a Form 8–R with NFA, and NFA, in turn, is required to notify any existing sponsor of the AP that the person has applied to become associated with another sponsor. This notification puts sponsors on notice that their registered APs will subject them to additional supervisory and joint and several responsibility requirements under Regulation 3.12(f). Employment as an AP of an SD or MSP, however, does not require registration with the Commission and, thus, the filing of a Form 8–R with NFA.

More recently (and subsequent to the Proposal), NFA amended NFA Bylaw 301 to add a new paragraph 301(l) (Eligibility to Conduct Swaps Activities), which requires NFA Member FCMs, IBs, CPOs and CTAs and their APs that engage in swaps activity that is subject to Commission jurisdiction to be approved by NFA as a ''swaps firm'' or ''swaps associated person,'' as applicable. The amendments also provide that in order to obtain NFA approval as a swaps firm, at least one of the firm's principals must be registered as an AP and approved as a swaps associated person. The amendments are intended to enable NFA to identify entities and individuals that are engaging in swaps activities. However, these requirements do not apply to SDs, MSPs or their APs, nor do they apply with respect to APs of an FCM that is also registered as an SD if the APs do not engage in swaps activity on behalf of the firm in its capacity as an FCM. *See* NFA Notice to Members I–12–24 (Oct. 3, 2012).

[19] Comment letter from Chris Barnard at page 1 (July 24, 2012).

that each SD, MSP and other Commission registrant is best positioned to determine the policies and procedures it will need to implement in order to determine whether any of its APs are associated with another SD or MSP.

III. The Final Regulations

A. Regulations 3.12(f)(5) and 23.22(c)

In light of the foregoing, the Commission is adopting as proposed regulations to provide for dual and multiple associations of persons associated with SDs, MSPs and other Commission registrants. Specifically, Regulation 3.12(f)(5)(i)(A) applies where a person associated as a registered AP of one or more (other) Commission registrants seeks to become associated as an AP of one or more SDs or MSPs; Regulation 3.12(f)(5)(i)(B) applies where a person associated as an AP of one or more SDs or MSPs seeks to become associated as a registered AP of one or more other Commission registrants; and Regulation 23.22(c) applies where a person associated as an AP of an SD or MSP seeks to become associated as an AP of one or more other SDs or MSPs.[20] The regulations make clear that each SD, MSP and other Commission registrant with whom the AP is associated is required to supervise the AP and is jointly and severally responsible for the activities of the AP with respect to customers common to it and any other SD, MSP or other Commission registrant. As proposed and as adopted, the regulations are based on the form and text of current Regulation 3.12(f)(1).[21]

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)[22] requires federal agencies, in promulgating regulations, to consider whether those regulations will have a significant economic impact on a substantial number of small entities and, if so, to provide a regulatory flexibility analysis respecting the impact. A regulatory flexibility analysis or certification typically is required for ''any rule for which the agency publishes a general notice of proposed rulemaking pursuant to'' the notice-and-comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b).[23] As discussed in the Proposal, the Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its regulations on small entities in accordance with the RFA.[24] The Commission previously has determined that FCMs, registered CPOs,[25] LTMs and RFEDs are not small entities for purposes of the RFA, and, thus, the requirements of the RFA do not apply to those entities.[26] In addition, in connection with its adoption of the Final Registration Regulations, the Commission determined that SDs and MSPs are not small entities for purposes of the RFA.[27] Therefore, the requirements of the RFA do not apply to SDs and MSPs. With respect to CTAs and IBs, the Commission previously has stated that it would evaluate within the context of a particular rule proposal whether all or some of the affected CTAs and IBs would be considered to be small entities and, if so, the economic impact on them of the particular regulation.[28] The Commission notes that the regulations being published by this **Federal Register** release will only impact, potentially, registered CTAs and registered IBs,[29] and the number of such impacted entities, if any, should likely be very small.[30]

The Commission did not receive any comments regarding its RFA analysis in the Proposal. Accordingly, pursuant to 5 U.S.C. 605(b), the Chairman, on behalf of the Commission, certifies that the regulations being published today by this **Federal Register** release will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act (PRA)[31] imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The regulations being published by this **Federal Register** release expressly obligate each SD, MSP and other Commission registrant to supervise their APs who have dual and multiple associations and make each SD, MSP and other Commission registrant jointly and severally responsible for the activities of such APs with respect to customers common to it and any other SD, MSP or other Commission registrant. As discussed in the Proposal, the regulations contain no provision that would impose a ''burden'' or ''collection of information'' as those terms are defined in the PRA.[32]

The Commission did not receive any comments regarding its PRA analysis in the Proposal. Accordingly, for purposes of the PRA, the Chairman, on behalf of the Commission, certifies that the regulations being published today by this **Federal Register** release will not impose any new reporting or recordkeeping requirements.

C. Cost-Benefit Considerations

Section 15(a) of the CEA[33] requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA or issuing certain orders. Section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market

[20] As discussed in the Proposal, two separate regulations addressing dual and multiple associations of APs of SDs and MSPs are necessary because, as noted above, the term ''sponsor'' and the provisions of Regulation 3.12(f) do not apply to SDs and MSPs with respect to their APs (who are not subject to a registration requirement).

[21] Thus, for example, Regulation 3.12(f)(5)(i)(B) provides that where an AP of an SD or MSP seeks to register as an AP of another Commission registrant, the new sponsor must meet the requirements of Regulation 3.60(b)(2)(i)(A) and (B), as is required of a new sponsor under current Regulation 3.12(f)(1). However, Regulation 3.12(f)(5)(i)(A) provides that an SD or MSP seeking to associate with an already registered AP must meet the requirements of Regulation 3.60(b)(2)(i)(A), but not also the requirements of Regulation 3.60(b)(2)(i)(B). This is because the requirements of the former regulation concern specified adjudicatory proceedings which would be applicable to SDs and MSPs while the requirements of the latter regulation concern financial requirements which are not applicable to SDs and MSPs.

[22] 5 U.S.C. 601 *et seq.*

[23] 5 U.S.C. 601(2), 603, 604 and 605.

[24] 47 FR 18618 (Apr. 30, 1982).

[25] To the extent the regulations being published by this **Federal Register** release (specifically, new Regulation 3.12(f)(5)) would have an impact on CPOs, it would only impact registered CPOs, since Regulation 3.12(f), by its terms, would not apply where an AP's new or existing association is with a person who is not registered with the Commission.

[26] *See* 47 FR at 18619–20 (discussing FCMs and CPOs); 54 FR 19556, 19557 (May 8, 1989) (discussing LTMs); 75 FR 55410, 55416 (Sept. 19, 2010) (discussing RFEDs).

[27] *See* 77 FR 2613, 2620 (Jan. 19, 2012) (adopting the Final Registration Regulations).

[28] *See* 47 FR at 18619 (discussing CTAs); 48 FR 35248, 35276–77 (Aug. 3, 1983) (discussing IBs).

[29] This is because, as noted above, Regulation 3.12(f) would not apply where an AP's new or existing association is with a person (e.g., a CTA or an IB) who is not registered with the Commission.

[30] *See Amendments to Commodity Pool Operator and Commodity Trading Advisor Regulations Resulting from the Dodd-Frank Act,* 76 FR 11701, 11703 (Mar. 3, 2011) (noting with regard to RFA considerations that the regulations proposed therein would only impact registered CTAs). As of October 19, 2012, less than three percent of all registered APs (or approximately 1500 APs) were associated on a dual or multiple basis with Commission registrants.

[31] 44 U.S.C. 3501 *et seq.*

[32] 77 FR 35892, 35895 (June 15, 2012).

[33] 7 U.S.C. 19(a).

participants and the public; (2) efficiency, competitiveness and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the section 15(a) factors.

As discussed above, the Commission is adopting regulations to specify the responsibilities applicable with respect to dual and multiple associations of APs of SDs and MSPs, and particularly, that such associations are permitted, but that they implicate the joint and several supervisory and responsibility provisions applicable with respect to such associations under Regulation 3.12(f). As noted above, prior to the adoption of these regulations, no regulations addressed dual and multiple associations of APs of SDs and MSPs and the obligations of those persons with whom they are associated concerning common customers.

Thus, the primary benefits of the regulations being adopted by the Commission include the same benefits noted by the Commission when it first adopted the supervisory and joint and several responsibility provisions under Regulation 3.12(f), namely, the prevention of circumstances where an SD, MSP or other Commission registrant seeks to avoid responsibility for the activities of an AP who has dual or multiple associations by asserting the conduct in question was not within the purview of its supervisory responsibilities with respect to the AP. Therefore, the Commission believes the regulations being published by this **Federal Register** release will provide protection to market participants and the public by ensuring that such APs will be adequately supervised, and those charged with supervising them will be held responsible for failing to do so. The Commission does not believe that compliance with the regulations being adopted will impose any significant, new cost on SDs or MSPs.

By this rulemaking, APs of SDs and MSPs that have dual or multiple associations will be subject to the same regulatory regime as APs of other Commission registrants that have dual or multiple associations, and SDs and MSPs (or other Commission registrants) employing an AP with dual or multiple associations will be prevented from attempting to disclaim responsibility for the activities of the AP by asserting that the AP was not acting on its behalf, but rather on behalf of another SD or MSP with whom the AP was associated (with respect to their common customers). These amendments will yield a substantial if unquantifiable benefit to the public because they will prevent SDs, MSPs and other Commission registrants from seeking to avoid supervision of and responsibility for the activities of their APs who have dual or multiple associations with respect to their common customers.

Section 15(a) Factors

Section 15(a) specifies that the costs and benefits shall be evaluated in light of the following five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of the futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations.

(1) The Protection of Market Participants and the Public

As discussed above, the Commission believes the regulations it is adopting by this **Federal Register** release will provide protection to market participants and the public by expressly obligating each SD, MSP or other Commission registrant to supervise its APs who have dual or multiple associations and by subjecting each SD, MSP and other Commission registrant to joint and several responsibility for the activities of such APs with respect to customers common to it and any other SD, MSP or other Commission registrant. More specifically, the regulations will prevent SDs, MSPs and other Commission registrants from disclaiming responsibility for the activities of their APs who have dual and multiple associations.

(2) The Efficiency, Competitiveness, and Financial Integrity of the Futures Markets

The Commission does not expect the regulations to have an impact on the efficiency, competitiveness and financial integrity of the futures market.

(3) The Market's Price Discovery Functions

The Commission does not expect the regulations to have an impact on the market's price discovery functions.

(4) Sound Risk Management Practices.

The Commission does not expect the regulations to have an impact on risk management practices by SDs, MSPs and other Commission registrants.

(5) Other Public Interest Considerations.

The Commission has not identified any other public interest considerations in light of which it should consider the costs and benefits of the regulations.

List of Subjects

17 CFR Part 3

Associated persons, Brokers, Commodity futures, Customer protection, Major swap participants, Registration, Swap dealers.

17 CFR Part 23

Associated persons, Commodity futures, Customer protection, Major swap participants, Registration, Reporting and recordkeeping requirements, Swap dealers.

For the reasons presented above, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 3—REGISTRATION

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

Authority: 5 U.S.C. 522, 522b; 7 U.S.C. 1a, 2, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6*i,* 6k, 6m, 6n, 6*o,* 6p, 6s, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21, and 23, as amended by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376 (July 21, 2010).

■ 2. Section 3.12 is amended by adding new paragraph (f)(5) to read as follows:

§ 3.12 Registration of associated persons of futures commission merchants, retail foreign exchange dealers, introducing brokers, commodity trading advisors, commodity pool operators and leverage transaction merchants.

* * * * *

(f) * * *

(5)(i)(A) A person who is already registered as an associated person in any capacity whose registration is not subject to conditions or restrictions may become associated as an associated person of a swap dealer or major swap participant if the swap dealer or major swap participant meets the requirements set forth in § 3.60(b)(2)(i)(A).

(B) A person who is already associated as an associated person of a swap dealer or major swap participant may become registered as an associated person of a futures commission merchant, retail foreign exchange dealer, introducing broker, commodity trading advisor, commodity pool operator, or leverage transaction merchant if the futures commission merchant, retail foreign exchange dealer, introducing broker, commodity trading advisor, commodity pool operator, or leverage transaction merchant with which the person intends to associate meets the

requirements set forth in § 3.60(b)(2)(i)(A) and (B).

(ii) Each sponsor and each swap dealer and/or major swap participant with whom the person is associated shall supervise that associated person, and each sponsor and each swap dealer and/or major swap participant is jointly and severally responsible for the conduct of the associated person with respect to the:

(A) Solicitation or acceptance of customer orders,

(B) Solicitation of funds, securities or property for a participation in a commodity pool,

(C) Solicitation of a client's or prospective client's discretionary account,

(D) Solicitation or acceptance of leverage customers' orders for leverage transactions,

(E) Solicitation or acceptance of swaps, and

(F) Associated person's supervision of any person or persons engaged in any of the foregoing solicitations or acceptances, with respect to any customers common to it and any futures commission merchant, retail foreign exchange dealer, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, swap dealer, or major swap participant with which the associated person is associated.

* * * * *

PART 23—SWAP DEALERS AND MAJOR SWAP PARTICIPANTS

■ 3. The authority citation for Part 23 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 6, 6a, 6b, 6c, 6p, 6s, 9, 9a, 13b, 13c, 16a, 18, 19, 21 as amended by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376 (July 21, 2010).

■ 4. Section 23.22 is amended by adding paragraph (c) to read as follows:

§ 23.22 Associated persons of swap dealers and major swap participants.

* * * * *

(c) *Dual and multiple associations.* (1) A person who is already associated as an associated person of a swap dealer or major swap participant may become associated as an associated person of another swap dealer or major swap participant if the other swap dealer or major swap participant meets the requirements set forth in § 3.60(b)(2)(i)(A) of this chapter.

(2) Each swap dealer and major swap participant associated with such associated person shall supervise that associated person, and each swap dealer and major swap participant is jointly and severally responsible for the conduct of the associated person with respect to the:

(i) Solicitation or acceptance of customer orders,

(ii) Solicitation of funds, securities or property for a participation in a commodity pool,

(iii) Solicitation of a client's or prospective client's discretionary account,

(iv) Solicitation or acceptance of leverage customers' orders for leverage transactions,

(v) Solicitation or acceptance of swaps, and

(vi) Associated person's supervision of any person or persons engaged in any of the foregoing solicitations or acceptances, with respect to any customers common to it and any other swap dealer or major swap participant.

Issued in Washington, DC, on March 29, 2013, by the Commission.

Christopher J. Kirkpatrick,

Deputy Secretary of the Commission.

[FR Doc. 2013–07755 Filed 4–5–13; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0132]

Safety Zone; San Francisco Giants Fireworks Display, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the San Francisco Giants Fireworks Display in the Captain of the Port, San Francisco area of responsibility during the dates and times noted below. This action is necessary to protect life and property of the maritime public from the hazards associated with the fireworks display. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM).

DATES: The regulations in 33 CFR 165.1191, Table 1, Item 1, are effective from 11 a.m. to 10:25 p.m. on April 19, 2013.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Lieutenant Junior Grade William Hawn, U.S. Coast Guard Sector San Francisco; telephone (415) 399–7442 or email at *D11-PF-MarineEvents@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a 100 foot safety zone around the fireworks barge off of Pier 50 in approximate position 37°46′28″ N, 122°23′06″ W (NAD 83) from 11 a.m. until 9:30 p.m. on April 19, 2013. From 8:30 p.m. to 8:40 p.m. on April 19, 2013 the loaded barge will transit from Pier 50 to the launch site near Pier 48 in position 37°46′38″ N, 122°23′01″ W (NAD83). The 100 foot safety zone applies to the navigable waters around and under the fireworks barge within a radius of 100 feet during the loading, transit, and arrival of the fireworks barge to the display location and until the start of the fireworks display. Upon the commencement of the 15 minute fireworks display, scheduled to take place between 9:30 p.m. and 10:15 p.m. on April 19, 2013, the safety zone will increase in size and encompass the navigable waters around and under the fireworks barge within a radius 1,000 feet around the launch site near Pier 48 in position 37°46′38″ N, 122°23′01″ W (NAD83) for the San Francisco Giants Fireworks Display in 33 CFR 165.1191, Table 1, Item number 1.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM. Additionally, each person who receives notice of a lawful order or direction issued by an official patrol vessel shall obey the order or direction. The PATCOM is empowered to forbid entry into and control the regulated area. The PATCOM shall be designated by the Commander, Coast Guard Sector San Francisco. The PATCOM may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

This notice is issued under authority of 33 CFR 165.1191 and 5 U.S.C. 552 (a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with extensive advance notification of the safety zone and its enforcement period via the Local Notice to Mariners.

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: March 21, 2013.

Cynthia L. Stowe,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2013–08038 Filed 4–5–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0402; FRL–9797–6]

Approval and Promulgation of Implementation Plans; Mississippi; 110(a)(2)(E)(ii) Infrastructure Requirements for the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve in part, and disapprove in part, the State Implementation Plan (SIP) submission, provided by the Mississippi Department of Environmental Quality (MDEQ), on October 11, 2012. This submission pertains to specific Clean Air Act (CAA) requirements for the 1997 annual and 2006 24-hour fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS) infrastructure SIPs. This action focuses on one component of the infrastructure requirements in the CAA. The CAA requires states to include provisions in their SIP to address conflicts of interest for state boards or bodies that approve CAA permits and enforcement orders and disclosure of conflict of interest requirements. Specifically, EPA is now approving the submission as it relates to the public interest requirements of CAA and the conflict of interest disclosure provisions. EPA is also now disapproving Mississippi's submission only as it pertains to compliance with the significant portion of income requirements of the CAA. Through this action, EPA is only taking action on the infrastructure SIP requirement related to Mississippi's obligation to address conflicts of interest requirements for state boards or bodies that approve CAA permits and enforcement orders and disclosure of conflict of interest requirements. All other applicable Mississippi infrastructure elements for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS have been addressed through separate rulemakings. EPA is also taking action to finalize substantive SIP revisions included with MDEQ's October 11, 2012, submission.

DATES: *Effective Date:* This rule will be effective May 8, 2013.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2012–0402. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can be reached via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background
II. This Action
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I. Background

On July 18, 1997 (62 FR 38652), EPA promulgated a new annual $PM_{2.5}$ NAAQS and on October 17, 2006 (71 FR 61144), EPA promulgated a new 24-hour $PM_{2.5}$ NAAQS. Upon promulgation of a new or revised NAAQS, section 110(a) of the CAA requires states to submit SIPs providing for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs, and section 110(a)(2) lists specific elements that states must meet for ''infrastructure'' SIP requirements related to a newly established or revised NAAQS. The section 110(a)(2) requirements include SIP infrastructure elements such as modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the NAAQS.

Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. The data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains. For many of the section 110(a) requirements, states have typically met these basic program elements through earlier SIP submissions in connection with previous NAAQS.

Mississippi submitted a SIP revision on October 11, 2012, to address section 110(a)(2)(E)(ii) infrastructure requirements for both the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. On August 9, 2012, EPA proposed to approve in part, and disapprove in part, Mississippi's infrastructure SIP submission addressing section 110(a)(2)(E)(ii).[1]

Section 110(a)(2)(E)(ii) of the infrastructure SIP requires that states comply with the requirements respecting state boards provided at Section 128 of the CAA. Section 128, in turn, requires that states include provisions in their SIP to address conflicts of interest for state boards or bodies that approve CAA permits and enforcement orders and to address disclosure of conflict of interest requirements. Specifically, CAA section 128(a)(1) necessitates that each SIP shall require that at least a majority of any board or body which approves permits or enforcement orders be subject to public interest service and income restrictions. Section 128(a)(2) requires that the members of any board or body, or the head of an executive agency with similar power to approve permits or enforcement orders under the CAA, shall also be subject to conflict of interest disclosure requirements.

In addition to the above-described proposed partial approval and partial disapproval of Mississippi's infrastructure SIP submission

[1] EPA took action on Mississippi's other applicable infrastructure SIP requirements in a separate rulemaking. See 77 FR 61276.

addressing section 110(a)(2)(E)(ii), EPA also proposed to approve certain sections of the Mississippi Constitution and Mississippi Code into the SIP. Specifically, EPA proposed to approve Mississippi's Article 4, Section 109 of the Mississippi Constitution and portions of Mississippi Code sections 25–4–25, –27, –29, –101, –103, and –105 into the Mississippi SIP. These SIP revisions satisfy certain conflict of interest requirements of section 128, which as described above, are required as part of the state's infrastructure SIP per section 110(a)(2)(E)(ii). More information on these specific provisions is provided in the proposed rule for today's action (77 FR 47573) and in the state's October 11, 2012, final SIP revision which is available in the docket for today's action.

II. This Action

EPA is taking final action to approve Article 4, Section 109 of Mississippi Constitution and portions of Mississippi Code sections 25–4–25, –27, –29, –101, –103, and –105 into the Mississippi SIP pursuant to section 128 of the CAA. The specific provisions for inclusion in the Mississippi SIP are described more fully in the State's October 11, 2012, final SIP revision which is available in the docket for today's action.

EPA is also taking final action to approve in part Mississippi's 110(a)(2)(E)(ii) infrastructure submission as it relates to the public interest requirements of CAA section 128(a)(1) and the conflict of interest disclosure provisions of section 128(a)(2). EPA is disapproving Mississippi's section 110(a)(2)(E)(ii) submission only as it pertains to compliance with the significant portion of income requirements of section 128(a)(1) of the CAA. See the August 9, 2012, proposed rule for EPA's analysis of Mississippi's 110(a)(2)(E)(ii) submission. (77 FR 47573). The 110(a)(2)(E)(ii) proposed actions were contingent upon Mississippi providing EPA with a final SIP revision that was not changed significantly from the July 13, 2012, draft revision. Mississippi provided its final SIP revision on October 11, 2012. There were no significant changes made to the final submittal. EPA received no comments on its August 9, 2012, proposed partial approval and partial disapproval of Mississippi's draft SIP revision addressing section 110(a)(2)(E)(ii).

Although EPA is taking action to disapprove a portion of Mississippi's 110(a)(2)(E)(ii) submission, the Agency notes that Mississippi has submitted a number of SIP revisions that are being determined adequate for approvability regarding the requirements of section 128. For example, Mississippi Code Section 25–4–105 precludes all public servants from using his or her official position to obtain, or attempt to obtain, pecuniary benefit for him- or herself other than that compensation provided for by law, or to obtain, or attempt to obtain, pecuniary benefit for any relative or any business with which he or she is associated. In addition, this section prevents board members from performing any service for any compensation during their term by which they attempt to influence a decision of the authority of the board. EPA interprets these requirements, once incorporated into the SIP, as demonstrating that Mississippi meets the section 128(a)(1) requirements respecting public interest.

EPA also notes that the public policy declared by the Mississippi Legislature in Mississippi Code Annotated section 25–4–101, which is being approved into the SIP today, in large part comports with the intent behind the CAA section 128 requirements.[2]

III. Final Action

As already described, EPA is taking final action to approve in part Mississippi's October 11, 2012, submission for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS addressing section 110(a)(2)(E)(ii) infrastructure requirements as it relates to the public interest requirements of CAA section 128(a)(1) and the conflict of interest disclosure provisions of section 128(a)(2). EPA is disapproving Mississippi's section 110(a)(2)(E)(ii) submission as it pertains to compliance with the significant portion of income requirements of section 128(a)(1) of the CAA.

Under section 179(a) of the CAA, final disapproval of a submittal that addresses a requirement of a Part D Plan (42 U.S.C. sections 7501–7515) or is required in response to a finding of substantial inadequacy as described in section 7410(k)(5) (SIP call) starts a sanctions clock. Section 110(a)(2)(E)(ii) provisions (the significant portion of income requirements of section 128(a)(1) being disapproved in today's notice) were not submitted to meet requirements for Part D, and therefore, no sanctions will be triggered. This partial disapproval action, however, does trigger the requirement under section 110(c) that EPA promulgate a FIP no later than 2 years from the date of the disapproval unless the state corrects the deficiency and the Administrator approves the plan or plan revision before the Administrator promulgates such FIP.

In addition, to the above actions respecting 110(a)(2)(E)(ii) infrastructure requirements, EPA is today also approving into the SIP the revisions related to section 128 submitted by Mississippi on October 11, 2012. Specifically, EPA is approving Article 4, Section 109 of Mississippi Constitution and portions of Mississippi Code sections 25–4–25, –27, –29, –101, –103, and –105 into the Mississippi SIP.

IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

[2] Section 25–4–101 provides that the Mississippi Legislature ''declares that elective and public office and employment is a public trust and any effort to realize personal gain through official conduct, other than as provided by law, or as a natural consequence of the employment or position, is a violation of that trust. Therefore, public servants shall endeavor to pursue a course of conduct which will not raise suspicion among the public that they are likely to be engaged in acts that are in violation of this trust and which will not reflect unfavorably upon the state and local governments.''

• is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 7, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Incorporation by reference, Nitrogen dioxide, Particulate Matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 27, 2013.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart Z—Mississippi

■ 2. Section 52.1270 is amended by:

■ a. In paragraph (c), adding an entry under the new heading ''Mississippi State Constitution'' and six entries under the new heading ''Mississippi Code'' at the end of the table.

■ b. In paragraph (e), adding a new entry for ''110(a)(2)(E)(ii) Infrastructure Requirement for the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards'' at the end of the table.

The additions read as follows:

§ 52.1270 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSISSIPPI REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
	Mississippi State Constitution			
Article 4 Section 109	Interest of Public Officers in Contracts	9/27/2012	4/8/2013 [Insert citation of publication].	
	Mississippi Code			
Section 25–4–25	Persons required to file statement of economic interest	9/27/2012	4/8/2013 [Insert citation of publication].	
Section 25–4–27	Contents of statement of economic interest	9/27/2012	4/8/2013 [Insert citation of publication].	
Section 25–4–29	Filing dates for statement	9/27/2012	4/8/2013 [Insert citation of publication].	
Section 25–4–101	Declaration of public policy	9/27/2012	4/8/2013 [Insert citation of publication].	

EPA-APPROVED MISSISSIPPI REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
Section 25–4–103	Definitions	9/27/2012	4/8/2013 [Insert citation of publication].	
Section 25–4–105	Certain actions, activities and business relationships prohibited or authorized; contacts in violation of section voidable; penalties.	9/27/2012	4/8/2013 [Insert citation of publication].	

* * * * * (e) * * *

EPA-APPROVED MISSISSIPPI NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
*	*	*	*	*
110(a)(2)(E)(ii) Infrastructure Requirement for the 1997 and 2006 Fine Particulate Matter National Ambient Air Quality Standards.	Mississippi	10/11/2012	4/8/2013 [Insert citation of publication].	EPA disapproved the State's 110(a)(2)(E)(ii) as it relates to section 128(a)(2), the significant portion of income requirement.

■ 3. Section 52.1278 is amended by designating the existing text as paragraph (a) and adding paragraph (b) to read as follows:

§ 52.1278 Control strategy: Sulfur oxides and particulate matter.

* * * * *

(b) *Disapproval.* EPA is disapproving portions of Mississippi's Infrastructure SIP for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS addressing section 110(a)(2)(E)(ii) that requires the State to comply with section 128 of the CAA.

[FR Doc. 2013–07975 Filed 4–5–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 10–90 and 05–337; DA 13–282]

Data Specifications for Collecting Study Area Boundaries

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Wireline Competition Bureau adopts modifications to the data specifications for collecting study area boundaries for purposes of implementing various reforms. The original specifications were adopted in the Commission's Connect America Fund; High-Cost Universal Service Support, Report and Order, (*Study Area Boundary Order*), released on November 6, 2012.

DATES: Effective April 8, 2013. The modifications adopted in this document are revisions to the *Study Area Boundary Order* data collection. The *Study Area Boundary Order* contained new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. The Bureau submitted a request for emergency PRA approval for the new data collection to the Office of Management and Budget (OMB) in December 2012, and OMB approved the Bureau's request on January 23, 2013. The OMB control number for this collection is 3060–1181.

FOR FURTHER INFORMATION CONTACT: Chelsea Fallon, Assistant Division Chief, at 202–418–7991, Industry Analysis & Technology Division, Wireline Competition Bureau. For additional information concerning the PRA information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Judith B. Herman at 202–418–0214.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau's *Study Area Boundary Reconsideration Order* (*Reconsideration Order*) in WC Docket No. 10–90; WC Docket No. 05–337; DA 13–282, released on February 26, 2013. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW., Washington, DC 20554, and may also be purchased from the Commission's copy contractor, BCPI, Inc., Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI, Inc. via their Web site, *http://www.bcpi.com,* or call 1–800–378–3160. This document is available in alternative formats (computer diskette, large print, audio record, and Braille). Persons with disabilities who need documents in these formats may contact the FCC by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

Synopsis of Reconsideration Order

1. On November 6, 2012, the Wireline Competition Bureau (Bureau) released the *Study Area Boundary Order,* DA 12–

1777, published at 78 FR 5750, January 28, 2013, OMB Control Number 3060–1181, adopting data specifications for the collection of study area boundary data to use in the implementation of certain universal service reforms adopted as part of the *USF/ICC Transformation Order,* 76 FR 73830, November 29, 2011. The *Study Area Boundary Order* required incumbent local exchange carriers (LECs) to submit certified study area boundary data in esri shapefile format, and it allowed state commissions or state telecommunications associations (state entities) voluntarily to submit such data on the LECs' behalf. In this *Reconsideration Order,* the Bureau modifies on its own motion several aspects of the rules adopted in the *Study Area Boundary Order.*

2. First, the Bureau concludes that it is more appropriate for state commissions to certify to the accuracy of the study area boundary data when they submit such data on behalf of the incumbent LECs operating in their state. Second, the Bureau reconsiders its decision to permit state associations to submit data on behalf of incumbent LECs and instead require that the entity that will certify to the accuracy of the data make the submission. Third, the Bureau permits incumbent LECs that are price cap carriers to submit exchange-level study area boundary data by providing internal wire center boundaries, if they choose, and indicating the exchange(s) associated with the wire center. Finally, the Bureau provides some guidance as to expectations regarding the certification requirement and clarifies the standards of accuracy laid out in the *Study Area Boundary Order.*

3. *State Entity Certification.* In the *Study Area Boundary Order,* the Bureau allowed state entities voluntarily to submit shapefiles on behalf of any and/or all incumbent LECs within their states. The Bureau stated that state commissions typically are the entities that establish incumbent LEC service areas and therefore are well situated to assist incumbent LECs in preparing study area boundary data. The *Study Area Boundary Order* concluded, however, that even when states submit data on behalf of incumbent LECs, those incumbent LECs remain responsible for reviewing and certifying to the accuracy of the state-submitted data. With this *Reconsideration Order,* the Bureau modifies certain aspects of these requirements; it concludes that the entity submitting data to the Commission is the more appropriate entity to certify to the accuracy of the study area boundaries and continues to encourage states to submit data on behalf of their incumbent LECs.

4. Since release of the *Study Area Boundary Order,* some incumbent LECs have argued that, because state commissions are the entities responsible for establishing study area boundaries, state commissions should be responsible for submitting such boundaries and/or certifying that they are accurate. In addition, certain state commissions have also asserted that they should be involved in or responsible for certifying the accuracy of the study area boundaries in their state. The Bureau recognizes that both state commissions and the Commission have a role in overseeing study area boundaries. Therefore, it is appropriate for the state commissions that voluntarily undertake the task of submitting boundary data to us to certify that these data are accurate and correct to the best of their knowledge, information, and belief. In addition to acknowledging the states' traditional role in administering incumbent LEC study area boundaries, the Bureau also believes that it is most efficient and direct for an entity submitting data to the Commission to be responsible for its accuracy, rather than having data submitted by one party but verified by another. While state commissions were the entities that originally established study area boundaries for the incumbent LECs in their state, the Bureau acknowledges that certain states may not have the resources available to compile and submit study area boundary data in the format requested for this data collection. The Bureau therefore will continue to rely on individual incumbent LECs to submit data on the study areas they serve, in cases where state commissions do not submit data, and will invite state entities to participate in any necessary reconciliation of data submitted by ILECs.

5. State commissions wishing to submit and certify study area boundary data should notify the Commission in writing of their intention to do so by filing a notification in WC Docket No. 10–90 using the Commission's Electronic Comment Filing System (ECFS). In these notifications, states should indicate which incumbent LEC study areas they plan to include in their submission. The Bureau will release a Public Notice identifying the deadlines for these notices, as well as the deadlines for the shapefile submissions and certifications, in the near future. States planning to submit data will be able to file at a later date than incumbent LECs since the states will have already taken on the task of resolving any disputes and ensuring the accuracy of the filing. State commissions should submit data based on the specification in the Specification attached hereto. The Bureau expects that the boundaries submitted and certified by state commissions will have been verified and reconciled at the state level, and that minimal further reconciliation will need to be done by Commission staff.

6. If a state commission does not notify the Commission that it intends to submit study area boundary data for the incumbent LECs in its state, those incumbent LECs are required to submit and certify their study area boundary data under the rules and procedures established in the *Study Area Boundary Order* and this *Reconsideration Order,* as well as subsequent Public Notices providing filing deadlines and instructions.

7. On reconsideration, the Bureau no longer provides an option for state associations to submit data on behalf of incumbent LECs in their state. Consistent with the decision above that state commissions making submissions should certify as to the accuracy of the data, the party submitting the data should also certify as to its accuracy, consistent with the certification standard as explained below. The Bureau does not believe that the state associations are likely to have the necessary information to be able to certify as to the accuracy of incumbent LECs' data; the Bureau therefore reconsiders the earlier decision to provide the option for state associations to submit data on behalf of incumbent LECs. However, state associations can assist state commissions and incumbent LECs in preparing boundary data and in the reconciliation of data submitted by incumbent LECs. In those states where the state commission chooses not to submit data on behalf of all incumbents, the Bureau encourages state commissions and state telecommunications associations to participate in the process of reconciling data submitted by the incumbent LECs and will share such data with them to assist in that function. For instance, the Bureau plans to provide state entities with a map of the LEC-submitted boundaries for their review and comment. If boundary overlaps, void areas, or disputes occur in data submitted by incumbent LECs, the Bureau will seek input from the relevant state entities and incumbent LECs to help resolve such issues. If a state commission chooses not to participate in the reconciliation process, the Bureau will resolve the matter based on the information before us.

8. The Bureau emphasizes that it needs to complete the initial data collection with sufficient time to allow for its use in developing revised high cost loop support (HCLS) benchmarks that will determine support levels beginning January 1, 2014. If neither an incumbent LEC nor the relevant state commission submits or certifies boundary data for particular study areas, the Bureau will determine the boundaries of such study areas, using its own analysis and data sources, for purposes of establishing the HCLS benchmarks that will be used to deliver support in 2014. If state commissions or incumbent LECs make refinements or corrections to study area boundary data after the required deadlines in 2013, those modifications cannot be considered until the next time the Bureau updates the HCLS benchmarks.

9. *Submissions by Price Cap Carriers.* The *Study Area Boundary Order* required all incumbent LECs to submit study area boundary data at the exchange level, with the shapefile for each study area depicting each internal exchange as a closed, non-overlapping polygon. It is important to collect exchange-level data from rate-of-return carriers because the Bureau, when conducting the analysis used to implement the HCLS benchmarking rule, must be able to distinguish those exchanges that are subject to ''frozen'' support levels from those that are not, and track and account for exchanges that are transferred from one incumbent LEC to another. However, because the HCLS benchmarking rule does not apply to price cap carriers, certain parties have argued that it may not be necessary or practical to collect study area boundary data at the exchange level from price cap carriers.

10. The study area boundaries of price cap carriers are needed to ''complete the puzzle'' for HCLS implementation—to verify the accuracy of adjacent rate-of-return carrier study areas. In addition, data on exchanges is useful for tracking the sale or transfer of exchanges between price cap and rate-of-return carriers. Knowing which exchanges have been transferred from a price cap carrier is important for HCLS implementation because it allows the Bureau to account for whether and how a rate-of-return carrier's study area boundary has changed as a result of the sale or purchase of an exchange. The Bureau therefore believes that exchange-level data from price cap carriers is necessary to ensure ongoing accurate HCLS implementation and will provide information generally useful for ongoing policy implementation at the Commission.

11. While exchange-level data from rate-of-return carriers are essential to HCLS implementation, and the benefits of collecting these data fully exceed the burdens involved in submitting them, the Bureau recognizes that the benefits of obtaining similar data from price cap carriers—while substantial—are more removed, and that submitting data at that level of detail involves time and effort on the part of the incumbent LECs or state commissions. The Bureau therefore reconsiders its decision to require exchange-level data for price cap areas and will allow price cap carriers—or state commissions—to submit the boundaries of component wire centers, which may be less burdensome to compile in a shapefile format, when submitting price cap study area boundary data, as long as the filer indicates the exchange or exchanges associated with each wire center. In addition, the filer should submit both a polygon of the outer boundary of the price cap study area, as well as polygons for the individual interior wire center boundaries, as part of the same shapefile or map layer. This change should provide the Commission with adequate data for HCLS implementation while reducing the filing burden on incumbent LECs and state commissions.

12. *Accuracy Requirements.* In the *Study Area Boundary Order,* the Bureau required that the submitted shapefiles conform to the 1:24,000 scale, which is the standard used by the U.S. Geological Survey (USGS) National Map and which claims to produce a horizontal accuracy of +/− 40 feet. Certain parties have voiced concerns about certifying that the study area boundary data they submit have a horizontal accuracy of +/− 40 feet. This requirement stems from the need to have boundaries conform to a common base map, rather than an accuracy requirement *per se.* If two adjoining study areas are bound by a road, stream, or other geographic or topographic feature, basing the maps of these areas on a standard scale of 1:24,000 will produce a more accurate set of boundaries and will greatly improve the reconciliation process.

13. This *Reconsideration Order* clarifies that in the initial year of implementation of this data collection, the Bureau will take a flexible approach in administering the requirement that shapefiles conform to the 1:24,000 topographic scale of the USGS National Map or that have an accuracy level of +/− 40 feet. In particular, the Bureau emphasizes that it does not intend to penalize filers who undertake reasonable, good faith efforts to submit information within the necessary time frames, even if that information subsequently is adjusted or corrected in future years.

14. The Bureau also acknowledges that even after incumbent LECs or state commissions certify to the accuracy of their submitted data, overlap and void areas can occur, and, in such cases, the Bureau will seek input from the relevant parties (incumbent LECs and/or state commissions) to resolve such issues during the reconciliation process. There may be disputes in particular instances as to the precise location of a boundary, and in this first year of implementation, the Bureau asks all parties to undertake best efforts to work with the Commission to develop a coherent national data set. The Bureau recognizes that the initial implementation of this data collection may be more challenging for some states than others, and the Bureau encourages all states to participate in this important effort.

15. Finally, the Bureau provides guidance regarding the requirement that an official certify that the information provided is accurate and correct to the best of his or her knowledge, information, and belief. Such certifications should be based on the information before the official making the certification and on a reasonable, good faith effort to confirm the accuracy of submitted boundaries. For incumbent LECs in states where the state commission is unable, for whatever reason, to undertake this important task, it is necessary to have some party indicate that it has made a reasonable, good faith effort to verify the information in question, even though the incumbent LEC is not the ultimate decision maker regarding the location of the boundary. The certification from an official of an incumbent LEC regarding the location of the boundary to the best of that individual's knowledge, information, and belief will represent just that—the individual's or company's reasonable, good faith efforts.

Congressional Review Act

16. The Commission will send a copy of this *Reconsideration Order* in a report to be sent to Congress and the Government Accountability Office, pursuant to the Congressional Review Act.

Paperwork Reduction Act

17. The *Study Area Boundary Order* contained new information collection requirements subject to the PRA, Public Law 104–13. The Bureau submitted a request for emergency PRA approval for this new data collection to the OMB in December 2012, 77 FR 75159–01, and OMB approved the Bureau's request on January 23, 2013, 78 FR 5750. The

emergency PRA approval expires on July 31, 2013. The Bureau will explain the modifications adopted in this *Reconsideration Order* when it submits its request for extension of the currently-approved collection to OMB. When that PRA request is published in the **Federal Register**, OMB, the general public, and other Federal agencies will be invited to comment on all aspects of the study area boundary information collection requirements.

Final Regulatory Flexibility Analysis

18. As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission prepared a Final Regulatory Flexibility Analysis (FRFA) for the *Study Area Boundary Order.* In accordance with the RFA, the Bureau certifies that the modifications adopted herein ''will not have a significant economic impact on a substantial number of small entities.'' The rules modified in this *Reconsideration Order* will reduce the burden on small entities relative to the impact of the rules adopted in the *Study Area Boundary Order.* The Bureau has eased the burden on small incumbent LECs by allowing state entities to certify to the accuracy of the data they (the states) submit, rather than requiring incumbent LECs to make the certification. The Bureau has also reduced the burden on small entities that are price cap carriers by allowing them the option to submit boundary data at the wire center rather than exchange level. The Commission will send a copy of this *Reconsideration Order,* including this certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Ordering Clauses

19. Pursuant to sections 1, 2, 4(i), 201–205, 218–220, 254, 256, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 201–205, 218–220, 254, 303(r), and 403, and §§ 0.91, 0.201(d), 0.291, and 1.427 of the Commission's rules, 47 CFR 0.91, 0.201(d), 0.291, 1.427, and pursuant to the delegations of authority in paragraphs 157, 184, 187, 192, 217 of the *USF/ICC Transformation Order,* document DA 13–282 *is adopted.*

20. Document DA 13–282 *shall be effective* upon publication in the **Federal Register**. The Bureau concludes that good cause exists to make the effective date of the modifications adopted in this *Reconsideration Order* effective immediately upon publication in the **Federal Register**, pursuant to section 553(d)(3) of the Administrative Procedure Act, 5 U.S.C. 553(d)(3). Agencies determining whether there is good cause to make a rule revision take effect less than 30 days after **Federal Register** publication must balance the necessity for immediate implementation against principles of fundamental fairness that require that all affected persons be afforded a reasonable time to prepare for the effective date of a new rule. The rules in the *Study Area Boundary Order* were duly published in the **Federal Register** and took effect on February 27, 2013. The changes adopted in this *Reconsideration Order* provide the affected parties with additional options for complying with the requirements in the *Study Area Boundary Order.* Given the need to collect this information and the lack of any additional burden imposed by this *Reconsideration Order,* there is good cause to make these amendments effective immediately upon **Federal Register** publication.

21. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of document DA 13–282, to the Chief Counsel for Advocacy of the Small Business Administration.

22. The Commission shall send a copy of document DA 13–282 to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

Federal Communications Commission.

Carol Mattey,

Deputy Chief, Wireline Competition Bureau.

Appendix—Specification for Study Area Boundary Submission

1. *General.* Incumbent local exchange carriers (LECs) or state commissions must submit study area boundaries in esri shapefile format. Incumbent LECs should submit each study area served in a separate shapefile. Since shapefiles typically consist of 3 to 9 individual files, the shapefile for the study area should be submitted as a single, zipped file containing all of the component files. The shapefile and encapsulating zip file names must contain the company name and the 6-digit study area code. Shapefile templates are available at *http://www/fcc/gpv/wcb/iatd/neca.html.*

2. State commissions may submit shapefiles comprised of multiple study areas, and may submit zip files that contain multiple study areas. The encapsulating zip file should contain the state name. Study area boundaries for rate-of-return carriers must be submitted at the exchange level, while study areas for price cap carriers can be submitted at the exchange or wire center level. The shapefile must contain one data record for each exchange or wire center within the study area. Each exchange or wire center should be represented as a closed, non-overlapping polygon with the associated feature attributes listed below in the accompanying metadata.

3. In cases where a carrier or state submits price cap study areas at the wire center level, the shapefile must contain both a polygon representing the outer study area boundary as well as polygons representing the internal wire centers. In the attributes associated with the polygon representing the outer study area boundary, fields 4, 5, and 6 (in Section II.B below) can be left blank or null. In addition, the attributes associated with each wire center polygon should include the exchange name(s) associated with the wire center. If there are multiple exchanges, list them all in the field separated by a comma.

4. After submitting the study area boundaries, an officer of the LEC, or an individual authorized by the state commission, must certify that the information provided is accurate and correct to the best of his/her knowledge, information, and belief, based the individual's or company's reasonable, good faith efforts.

Note that submitted boundaries are public data and may be used in published FCC documents and Web pages.

5. *Shapefile.* A shapefile template is available at *http://transition.fcc.gov/wcb/iatd/neca.html.* Submitted shapefiles must:

A. Contain one closed, non-overlapping polygon for each exchange or wire center in the study area. The polygon should represent the area served from that exchange or wire center

B. Have associated with each exchange or wire center polygon the following identifying feature attributes (or fields):
   1. OCN—NECA-assigned operating company number as in the LERG
   2. Company Name
   3. Boundary Type—Exchange, Wire Center, or Outer Study Area
   4. Exchange Name (If a price cap carrier or state commission is submitting wire center-level data, it should provide the name of the exchange associated with the wire center boundary.)
   5. Wire Center Name (leave blank if submitting exchange-level data)
   6. Was the Exchange acquired subject to section 54.305 of the Commission's rules?
   7. Study Area Code (6-digit)
   8. State

C. Have an assigned projection w/ accompanying .prj file

D. Use unprojected (geographic) WGS84 geographic coordinate system

E. Conforming to 1:24K national mapping standards or have a minimum horizontal accuracy of +/- 40 feet or less

F. Be submitted as a WinZip archive with a name containing the company name and study area code (e.g., CompanyName_123456.zip).

6. *CLLI Codes.* In conjunction with the shapefile attributes listed above, incumbent LECs or state entities should submit, within the zip file, a .csv file listing all of the 11-digit CLLI codes (for switches) associated with each exchange or wire center boundary. Because multiple CLLI codes can be associated with an exchange, it is easiest to capture these data in a separate table rather than include them in the shapefile attributes listed above. The .csv file should contain the three fields listed below, and each CLLI code should be listed in a separate row. This is a .csv file only; the locations of the switches

associated with the CLLI codes do not need to be mapped.

- Boundary Type—Exchange, Wire Center, or Outer Study Area
- Exchange or Wire Center Name
- CLLI Code (11-digit)

7. *Cover Page Information.* In addition to the shapefile data described above, the Bureau also will collect electronically the following information:

A. Company Name
B. FRN (please use the FRN used for the 477 filing in the state)
C. Contact person name
D. Contact person address
E. Contact person phone number
F. Contact person email address
G. Date created/revised
H. Methodology—process steps to create the data
I. Certifying official name
J. Certifying official address
K. Certifying official phone number
L. Certifying official email address

[FR Doc. 2013–08030 Filed 4–5–13; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[Docket No. 110801452–3176–04]

RIN 0648–BB00

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Construction and Operation of a Liquefied Natural Gas Deepwater Port in the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS, upon request of Port Dolphin Energy LLC (Port Dolphin), hereby issues regulations pursuant to the Marine Mammal Protection Act (MMPA) to govern the unintentional taking of marine mammals, by harassment, incidental to port construction and operations at its Port Dolphin Deepwater Port in the Gulf of Mexico, over the course of five years; approximately June 2013 through May 2018. These regulations, which allow for the issuance of Letters of Authorization for the incidental take of marine mammals during the described activities and specified timeframes, prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, as well as requirements pertaining to the monitoring and reporting of such taking.

DATES: Effective from June 1, 2013 through May 31, 2018.

ADDRESSES: A copy of Port Dolphin's application may be obtained by writing to Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* Documents cited in this final rule may also be viewed, by appointment, during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: ''any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild ['Level A harassment']; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering ['Level B harassment'].''

Summary of Request

On February 1, 2011, we received a complete application from Port Dolphin for the taking of marine mammals incidental to port construction and operations at its Port Dolphin Deepwater Port (DWP) facility in the Gulf of Mexico (GOM). During the effective period of this final rule (June 2013–May 2018), Port Dolphin plans to construct the DWP and related infrastructure, expected to occur over an approximately 11-month period, and will subsequently begin operations. The DWP will be an offshore liquefied natural gas (LNG) facility, located in the GOM approximately 45 km (28 mi) off the western coast of Florida, and approximately 68 km (42 mi) from Port Manatee, located in Manatee County, Florida, within Tampa Bay (see Figure S–1 in Port Dolphin's application). The DWP will be in waters of the U.S. Exclusive Economic Zone (EEZ) approximately 31 m (100 ft) in depth and will consist principally of a permanently moored buoy system, designed for offloading of natural gas, leading to a single new natural gas transmission pipeline that will come ashore at Port Manatee and connect to existing infrastructure.

Take of marine mammals is expected to occur as a result of the introduction of sound into the marine environment during construction of the DWP and pipeline and during DWP operations, which will involve shuttle regasification vessel (SRV) maneuvering, docking, and debarkation, as well as regasification activity. Because the specified activities have the potential to take marine mammals present within the action area, Port Dolphin may be authorized to incidentally take, by Level B harassment only, small numbers of bottlenose dolphin (*Tursiops truncatus*) and Atlantic spotted dolphin (*Stenella frontalis*).

Description of the Specified Activity

Port Dolphin's proposed activities were described in detail in the **Federal Register** notice announcing the proposed rule (77 FR 55646; September 10, 2012); please see that document for more information. Port Dolphin plans to construct and operate a DWP in the U.S. EEZ of the GOM Outer Continental Shelf (OCS) approximately 45 km (28 mi) off the western coast of Florida to the southwest of Tampa Bay, in a water depth of approximately 31 m (100 ft). On March 29, 2007, Port Dolphin submitted an application to the U.S. Coast Guard (USCG) and the U.S. Maritime Administration (MARAD) for all federal authorizations required for a

DWP license under the Deepwater Port Act of 1974 (DWPA). Port Dolphin received that license in October 2009. The Port will consist of a permanently moored unloading buoy system with two submersible buoys separated by a distance of approximately 5 km (3 mi). The buoys are designed to moor a specialized type of LNG carrier vessel (i.e., SRVs) and remain submerged when vessels are not present. Regasified natural gas is sent out through the unloading buoy to a 36-in (0.9 m) pipeline that will connect onshore at Port Manatee with the existing Gulfstream Natural Gas System and Tampa Electric Company (TECO) Bayside pipeline. The DWP will only serve SRVs. Construction of the DWP is expected to take 11 months. Port Dolphin DWP will be designed, constructed, and operated in accordance with applicable codes and standards and will have an expected operating life of approximately 25 years. The locations of the DWP and associated pipeline are shown in Figure S–1 in Port Dolphin's application; Figure 1–1 of the same document depicts a conceptual site plan for the DWP.

Construction activities, expected to last a total of approximately 11 months, will include construction and installation of offshore buoys, mooring lines, and anchors (i.e., the DWP facilities) and laying the marine pipeline. Construction is expected to be continuous from mobilization to demobilization with no work stoppages due to weather or other issues. Please see Table 2–1 of Port Dolphin's application for a graphical depiction of the complete timeline of proposed construction activities. The two unloading buoys, also known as submerged turret loading (STL) buoys, will each have eight mooring lines connected to impact-driven anchor points. When not connected to a SRV, STL buoys will be submerged 60 to 70 ft (18 to 21 m) below the sea surface. Offshore installation activities at the DWP will begin with installation of pipeline end manifolds (PLEMs) at both STL buoy locations (north and south), followed by placement of the buoy anchors, mooring lines, buoys, and risers. Installation activities at both STL buoy locations will require a cargo barge, supported by anchor-handling support vessels, a supply boat, a crew transfer boat, and a tug. Buoy anchors will be installed via impact pile driving.

The installation of the pipeline from the DWP to shore will include burial of the pipeline, selective placement of protective cover (either rock armoring or concrete mattresses) over the pipeline at several locations along the pipeline route where full burial is not possible, and the horizontal directional drilling (HDD) of three segments of the pipeline. The pipeline will be laid on the seafloor by a pipelaying barge and then buried, typically using a plowing technique. Other techniques, such as dredging and HDD, are planned to be used in certain areas depending on the final geotechnical survey, engineering considerations, and equipment selection. At the western (seaward) end, the pipeline will consist of two 36-in (0.9-m) flowlines connected to the north and south PLEMs, which will connect at a Y-connection approximately 3.2 km (2 mi) away (see Figure 1–1 in Port Dolphin's application). From the Y-connection a 36-in (0.9-m) gas transmission line will travel approximately 74 km (46 mi) to interconnections with the Gulfstream and TECO pipeline systems.

Pipeline trenching and burial requirements are governed by Department of the Interior regulations at 30 CFR part 250 subpart J, which requires pipelines and all related appurtenances to be protected by 3 ft (0.9 m) of cover for all portions in water depths less than 200 ft (61 m). Portions of the pipeline that travel through hard-bottom areas may not be able to be buried to the full 3 ft depth. In these areas, flexible concrete mattresses or other cover will be used to cover the pipeline. In places where the pipeline crosses shipping lanes, it will be buried 10 ft (3 m) deep if the sea floor permits plowing. Under the plowing method, the pipeline is lowered below seabed level by shearing a V-shaped ditch underneath it. The plow is towed along and underneath the pipeline by the burial barge. As the ditch is cut, sediment is removed and passively pushed to the side by specially shaped moldboards that are fitted to the main plowshare. The trench is then backfilled with a subsequent pass of the plow (see Figure 1–2 in Port Dolphin's application for a conceptual diagram of this process).

In areas that cannot be plowed (e.g., due to hard/live bottom) or complete burial cannot be achieved, the pipeline will be covered with an external cover (e.g., concrete mattresses or rock armoring). Although plowing is the preferred methodology for pipeline burial, other techniques such as dredging and HDD would be used where required. Figure 1–3 of Port Dolphin's application uses color coding of the pipeline route to show where these various methodologies may be used, based on bottom structure and other barriers. The total length of the pipeline route is 74 km.

HDD will be employed for installation of the pipeline at three locations along the inshore portion of the route. The planned HDD locations include drilling from land to water at the Port Manatee shore approach and from water-to-water at two crossings of the existing Gulfstream pipeline. The eastern HDD crossing is 898 m (2,947 ft) in length, and the western HDD crossing is 407 m (1,335 ft) in length. Port Dolphin plans to install ''goal post'' support structures for pipe materials at the two water-to-water HDD locations; this is likely to require vibratory pile driving. At the shore-to-water transition HDD, Port Dolphin will need to install sheet piling to form a coffer dam, designed to contain the HDD exit pit so as to not impact nearby aquatic vegetation. Sheet pile segments will also be installed by vibratory means. Clamshell dredging may be required in certain areas, shown in Figure 1–3 of Port Dolphin's application. Various barges, tugs, and the clamshell dredge will be mobilized for offshore pipe-laying activities. This equipment would be used where conventional installation methods are anticipated. An HDD spread, including multiple barges and tugs, would be used for the three planned HDD segments.

SRVs are specialized LNG carriers designed to regasify the LNG prior to off-loading for transport to shore. Each STL buoy will moor one SRV on location throughout the unloading cycle. An SRV will typically moor at the deepwater port for between 4 and 8 days, depending on vessel size and send-out rate. Unloading of natural gas (i.e., vaporization or regasification) will occur through a flexible riser connected to the STL buoy and into the PLEM for transportation to shore via the subsea pipeline. With two separate STL buoys, Port Dolphin may schedule an overlap between arriving and departing SRVs, thus allowing natural gas to be delivered in a continuous flow. For the duration of this rule, Port Dolphin is planning for an initial natural gas throughput of 400 million standard cubic feet per day (MMscfd). Based on a regasification cycle of approximately 8 days and initial throughput of 400 MMscfd, maximum vessel traffic during operations over the lifetime of this final rule is projected to consist of 46 SRV unloadings per year.

DWP operations will include SRV maneuvering/docking, regasification of LNG cargo, and debarkation. In the open ocean, the SRVs typically travel at speeds of up to 19.5 kn (36.1 km/hr), reducing to less than 14 kn (25.9 km/hr) while maintaining full maneuvering speed. However, once approaching the vicinity of the DWP—within

approximately 16 to 25 km (10–16 mi) of the DWP—the SRVs will begin approach by slowing to about half speed, and then to slow ahead. Inside of 5 km (3.1 km) from the DWP, the SRVs' main engines will be placed in dead slow ahead and decreased upon approach to dead slow, with final positioning and docking to occur using thrusters. Expected SRV transit, approach, and maneuvering/docking characteristics are outlined in Table 1. Only the maneuvering/docking activities and their associated sound sources (i.e., thrusters) were considered in the proposed rulemaking; transit and approach maneuvers are considered part of routine vessel transit and are not included in this final rule.

TABLE 1—SRV SPEEDS AND THRUSTER USE DURING TRANSIT, APPROACH, AND MANEUVERING/DOCKING OPERATIONS AT THE DWP

Zone	Speed limit	Thrusters in use?
> 33 km from DWP	Full service speed (19.5 kn)	No.
25–33 km from DWP	Full maneuvering speed (<14 kn)	No.
16–25 km from DWP	Half ahead (<10 kn)	No.
5–16 km from DWP	Slow ahead (<6 kn)	No.
Inside 5 km from DWP	Dead slow ahead (<4.5 kn, decreasing to <3 kn)	Bow and stern thrusters.
Docking	Dead slow	Two bow thrusters; possibly one or two stern thrusters.

Method of Incidental Taking

Incidental take is anticipated to result from elevated levels of sound introduced into the marine environment by the construction and operation of the DWP, as described in preceding sections. Specifically, sound from pile driving, drilling, pipe laying and burial, and vessel operations during the construction and installation phase, and sound from SRV maneuvering, docking, and regasification during operations may result in the behavioral harassment of marine mammals present in the vicinity. Certain described activities (e.g., pipeline laying and burial) involve a suite of sound sources considered as a single modeled scenario, including vessel noise from tugboats as well as barges with equipment operating on them. The vessel noise component of these activities is not considered routine vessel transit here and so is analyzed in this rule as a component of the overall activity scenario. The vessels considered as elements of these scenarios are in some cases engaged in non-transit activities, such as anchoring operations. However, we agreed with Port Dolphin's overall approach to analyzing the effects of these proposed activities, which included modeling all sound-producing components. Table 2 shows these proposed activities by the time of year they are anticipated to occur.

TABLE 2—SUMMARY OF CONSTRUCTION, INSTALLATION, AND OPERATIONS ACTIVITIES, BY SEASON

Activity	Season
Construction and installation	
Buoy installation	Summer 2013.
Offshore impact hammering	Summer 2013.
Pipelaying offshore	Late Summer 2013 through early Winter 2013–14.
Pipelaying inshore	Late Summer 2013 through early Winter 2013–14.
Offshore pipeline burial	Fall 2013 through Winter 2013–14.
Inshore pipeline burial	Fall 2013 through Winter 2013–14.
HDD	Summer 2013.
HDD vibratory driving	Summer 2013.
Operations	
SRV maneuvering/docking	Year-round; maximum 46 visits per year.
Regasification	Year-round; 8 days estimated per visit.

During construction, underwater sound will be produced by machinery (e.g., pile driving and pipe laying equipment, trenching equipment, and goal post installation equipment at the HDD locations) and construction vessels (in certain scenarios, e.g., barges and tugboats used for pipe laying) operating either intermittently or continuously throughout the area during the construction period. Vessel sound considered under certain scenarios will be created by propulsion machinery, thrusters, generators, and hull vibrations and will vary with vessel and engine size. Machinery sound from underwater construction will be transmitted through water and will vary in duration and intensity. Port construction (i.e., field construction and installation operations) is expected to require approximately 11 months. While the main sound source during SRV transit and approach to the DWP will originate from the SRV main engines (i.e., predominantly in low frequencies), the primary sound source during maneuvering and docking will be the SRV thrusters.

Description of Sound Sources

An in-depth description of sound sources in general was provided in the FR notice (77 FR 55646; September 10, 2012). Significant sound-producing activities are described in the preceding sections. Known sound levels and frequency ranges associated with anthropogenic sources similar to those

that would be used for this project are summarized in Table 3. Details of each of the sources are described in the following text.

TABLE 3—ANTICIPATED SOURCE LEVELS FOR CONSTRUCTION/INSTALLATION AND OPERATIONS AT THE PORT DOLPHIN DWP

Source	Activity	Location	Maximum broadband source level (re: 1 μPa)
Barge	Anchor installation operations	STL buoys (DWP)	177 dB.
Tug	Anchor installation operations	STL buoys (DWP)	205 dB.
Impact hammer [1]	Pile driving	STL buoys (DWP)	217 dB.
Barge	Pipe laying	Pipeline corridor, DWP to shore	174 dB.
Tug	Transit	Offshore/Inshore	191 dB.
Dredge	Dredging	Likely inshore, offshore if necessary	188 dB.
HDD	Drilling	Two locations in Tampa Bay	157 dB.
Vibratory driving	Sheet pile installation	Two locations in Tampa Bay	186 dB.
SRV	Maneuvering/docking, with thrusters	DWP	183 dB.
SRV	Regasification	DWP	165 dB.

Source: JASCO, 2008, 2010.
[1] Source level for impact hammer estimated assuming pulse length of 100 ms.

The sounds produced by these activities fall into one of two sound types: Pulsed and non-pulsed. Examples of non-pulse sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, and vibratory pile driving. Many of the sounds produced by the project will be transient in nature (i.e., the source moves), such as during vessel docking. Regasification sounds are continuous (while the SRV is docked) and stationary. The positioning (maneuvering and docking) of SRVs using thrusters is intermittent (i.e., every 8 days) and of short duration (i.e., 10 to 30 minutes). For this project, the only pulsive sounds are associated with pile driving activities at the offshore Port location (i.e., associated with anchor installation activities). Sound levels can be greatly reduced during impact pile driving using sound attenuation devices. The information available suggests that bubble curtains, cushion blocks and caps, and temporary sound attenuation piles offer comparable levels of sound attenuation for pile driving. Port Dolphin plans to implement one or more of these techniques during the pile driving activities needed to install components of the STL buoys and will make a final decision with regard to the technology to be used prior to beginning work.

Sound Thresholds

Since 1997, NMFS has used generic sound exposure thresholds to determine when an activity in the ocean that produces sound might result in impacts to a marine mammal such that a take by harassment or injury might occur. Current NMFS practice regarding exposure of marine mammals to high level sounds is that cetaceans exposed to impulsive sounds of 180 dB rms or above are considered to have been taken by Level A (i.e., injurious) harassment. Behavioral harassment (Level B) is considered to have occurred when marine mammals are exposed to sounds at or above 160 dB rms for impulse sounds (e.g., impact pile driving) and 120 dB rms for continuous sound (e.g., vessel sound, vibratory pile driving) but below injurious thresholds.

Distance to Sound Thresholds

Sound source modeling produced under contract by the applicant (JASCO, 2008, 2010) details the predicted distances to relevant regulatory sound thresholds for the specified activities, and was described in detail in the **Federal Register** notice announcing the proposed rule (77 FR 55646; September 10, 2012). We have determined that this information represents the best information available for project sound sources and used the information to develop mitigation measures and to estimate potential incidental take. The modeling scenarios considered all sound sources associated with the project and were developed to thoroughly characterize the various construction/installation and operation activities expected. The relevant information is summarized in Table 4. For each piece of equipment specified, proxy vessels were selected from JASCO Research's database of underwater sound measurements. The sound propagation model used several parameters, including expected water column sound speeds, bathymetry (water depth and shape of the ocean bottom), and bottom geoacoustic properties (which indicate how much sound is reflected off of the ocean bottom), to estimate the radii of sound impacts (JASCO, 2008). Modeling scenario locations are depicted in Figure 1–4 of Port Dolphin's application. Please see Appendices C and D in Port Dolphin's application for a detailed description of this sound source modeling.

TABLE 4—REPRESENTATIVE SCENARIOS MODELED DURING THE PORT DOLPHIN SOUND SOURCE ANALYSIS AND RADIAL DISTANCE TO THRESHOLDS

Activity	Source	Modeled location	Distance to threshold [1 2]	Approximate area encompassed by threshold [2]
Buoy installation	Crane vessel, cargo barge, support vessel	North STL buoy; offshore DWP site.	180 dB: <0.2 km 120 dB: 3.9 km	180 dB: <0.13 km^2 120 dB: 48 km^2
Impact hammering	Impact hammer	Y-connector; offshore DWP site.	180 dB: 0.18 km 160 dB: 4.5 km	180 dB: 0.10 km^2 160 dB: 64 km^2

TABLE 4—REPRESENTATIVE SCENARIOS MODELED DURING THE PORT DOLPHIN SOUND SOURCE ANALYSIS AND RADIAL DISTANCE TO THRESHOLDS—Continued

Activity	Source	Modeled location	Distance to threshold [1 2]	Approximate area encompassed by threshold [2]
Pipelaying, offshore	Barge, two anchor handling tugs, support tug	15-m isobath	180 dB: <0.2 km 120 dB: 7.5 km	180 dB: <0.13 km^2 120 dB: 177 km^2
Pipelaying, inshore	Barge, two anchor handling tugs, support tug	Tampa Bay	180 dB: <0.2 km 120 dB: 6.0 km	180 dB: <0.13 km^2 120 dB: 113 km^2
Pipeline burial, offshore.	Plow system, two anchor handling tugs	15-m isobath	180 dB: <0.2 km 120 dB: 8.4 km	180 dB: <0.13 km^2 120 dB: 222 km^2
Pipeline burial, inshore	Plow system, two anchor handling tugs	Tampa Bay	180 dB: <0.2 km 120 dB: 6.7 km	180 dB: <0.13 km^2 120 dB: 141 km^2
HDD	Floating spud barge, crane mounted drill, welding equipment, air compressor, generator.	Tampa Bay	180 dB: <0.01 km 120 dB: 0.24 km	180 dB: <0.00 km^2 120 dB: 0.2 km^2
HDD vibratory driving	Floating spud barge, vibrator, welding equipment, air compressor, generator.	Tampa Bay	180 dB: <0.01 km 120 dB: 12.6 km	180 dB: <0.00 km^2 120 dB: 499 km^2
Docking at buoy, dead slow, two bow thrusters and one stern thruster.	SRV	STL buoy; offshore DWP site.	180 dB: <0.01 km 120 dB: 3.6 km	180 dB: <0.00 km^2 120 dB: 41 km^2
Regasification	SRV	STL buoy; offshore DWP site.	180 dB: 0.00 km 120 dB: 0.17 km	180 dB: <0.00 km^2 120 dB: 0.09 km^2

Source: JASCO, 2008, 2010.
[1] All distances are unweighted, 95th percentile radial distances.
[2] For distances not given precisely (e.g., <0.2 km) area of ensonification was modeled using a radial distance of 200 m. Although the distance to threshold would be less than 200 m, it is not possible to specifically calculate the distance because the scenarios involve multiple vessel components.

In many cases the scenarios listed in Table 4 involve multiple pieces of equipment. Although equipment spacing may vary during the course of operations, a single layout must be assumed for modeling purposes. As such, where multiple vessels were involved in the scenarios, it was assumed that the layout, or ''spread,'' would include the primary operational barge set in the middle of the group of vessels, with support vessels spaced at a range of 100 m (328 ft) from the center of the barge.

Although sounds created by construction equipment and vessels will be continuous during pipeline installation, activities will progress slowly along the pipeline route as the pipeline is laid and buried and the trench backfilled. Any one area will be subject to the maximum sound levels for only 1 to 2 days at a time as the construction activities pass that area. Sound modeling indicates that, overall, operational sound associated with the project is consistent with other man-made underwater sound sources in the area (e.g., commercial shipping and dredging). Appendix E of Port Dolphin's application presents Level B harassment sound field graphics for construction activities.

Comments and Responses

On September 10, 2012, we published a proposed rulemaking in the **Federal Register** (77 FR 55646) and requested comments and information from the public for 45 days. We received three sets of substantive comments, from the Marine Mammal Commission (Commission) and two private citizens. In addition, the U.S. Department of the Interior notified us that they reviewed the proposed rulemaking and did not have any comments. The comments, and our responses, are provided here. The Commission's comments are addressed first.

The Commission stated that, with some exceptions, our proposed suite of mitigation and monitoring measures is thorough and appropriate for the activities being considered. However, the Commission also recommended that we require implementation of several additional measures, all of which are similar to requirements NMFS has imposed on other applicants in significantly different contexts. Important differences exist between those projects and the action considered here, and we have determined that some of the Commission's recommendations are not appropriate for the Port Dolphin project. In addition, the MMPA requires that we weigh practicability of a measure, as well as conservation benefit, when considering what measures are warranted. Additional recommendations indicate some need for clarification, which we will provide below.

The Commission recommends that we require Port Dolphin to submit the preliminary results of its in-situ sound source measurements and adjust the size of the Level A and B harassment zones, as necessary, within 5 days after it initiates construction activities. The Commission's recommendations are similar to requirements we have imposed on the oil and gas industry for seismic exploration in the Arctic waters of Alaska. We agree that quickly making any necessary adjustments to mitigation zones following in-situ verification of modeled sound sources is appropriate for high-impact activities conducted in sensitive environments and affecting vulnerable species (e.g., Arctic seismic surveys and impacts to endangered bowhead whales [*Balaena mysticetus*]). In addition, this measure has been required in the Arctic to address concerns related to the availability of marine mammals for subsistence hunting. However, we do not believe such a measure is warranted or necessary for Port Dolphin's relatively low-impact activities, which will not affect sensitive species, and do not have the potential to affect subsistence users as none are present in the Gulf of Mexico.

The Commission also recommends that we require Port Dolphin to monitor the full extent of the Level A and B harassment zones to detect the presence and characterize the behavior of marine mammals during all construction activities. We agree with the Commission that the full extent of any

Level A harassment zone should be monitored. The Level A mitigation zone for impact pile driving, for example, extends to 250 m from the source and can be confidently monitored to detect the presence of marine mammals and implement any necessary shutdown. Beyond this distance, monitoring is conducted for the purpose of gathering information about the level of taking or impacts to the population. However, we have concluded that it is not necessary to monitor the full extent of the Level B harassment zones (which range up to 500 km^2). These zones will be observed as far as line of sight (e.g., up to approximately 1,000 m, depending on weather and sea state conditions). The presence of and observable effects to marine mammals within this portion of the zone will be recorded, and these observations are expected to provide sufficient information. Underwater noise generated by the activity attenuates with distance from the source; therefore, it is unlikely that animals at greater distance would display adverse reactions unlike, or of greater magnitude, than those within the observed zone. Moreover, our modeling and analyses have already predicted the anticipated level of take in the Level B zone, and we have assessed, through our negligible impact determination, the potential impacts on the affected species. Finally, we do not believe a more extensive and costlier monitoring program, e.g., vessel-based or aerial-based observers, will yield added conservation value or produce any greater information about the potential effects on delphinids.

The Commission recommends that we require Port Dolphin to install and maintain a long-term passive acoustic monitoring array at the proposed port to (1) determine ambient (pre-construction), construction, and operational (post-construction) sound levels and (2) monitor the occurrence of marine mammals in the vicinity of the port. We agree with the Commission that acoustic monitoring can improve our understanding of ambient sound levels and marine mammal presence in the vicinity of the port and, as described in the proposed rule and carried forward here, we are requiring Port Dolphin to make such measurements. In addition, trained marine mammal observers will be required during the construction phase of the project and should be able to collect additional information as recommended by the Commission.

We have determined that longer-term monitoring of occurrence and habitat use of marine mammals during port operations is not warranted in this case. This type of monitoring would be most beneficial during operation of the port. However, we have determined that port operation is a low-impact activity, consisting of ocean-going cargo vessels calling on the deepwater port every eight days and producing relatively low levels of non-pulsed noise (see our Negligible Impact Determination, later in this document). This level of activity is small (estimated at 46 vessels calling on the port per year) relative to existing vessel traffic in the eastern Gulf of Mexico and is unlikely to appreciably impact marine mammals' fitness. In addition, the long-term maintenance of a larger array would require different technical specifications and configuration than what is necessary for the focused task of measuring sound associated with the project. Such an array was developed in Massachusetts waters, in collaboration with Stellwagen Bank National Marine Sanctuary and Cornell University, in order to characterize vessel noise and monitor the presence of large, endangered whales (including the North Atlantic right whale [*Eubalaena glacialis*]). The array was used in a regulatory context in order to alert large vessels to the presence of whales and avoid ship strikes. The need for such an undertaking is lacking here, as there are no large whales or other sensitive species or habitat present in the vicinity of the port, and there is no partnership necessary to successfully deploy, maintain, and analyze data from such an array.

The Commission also recommends we require that any data collected by Port Dolphin should be shared with the Gulf of Mexico Coastal Ocean Observing System for integration with other oceanographic data. We agree with this recommendation and may, as appropriate, share any non-privileged data with the network.

Additional Commission recommendations require some clarification. The Commission recommends that we base our negligible impact determinations on (1) the estimated mean number of individuals of each species in the area that may be taken plus some measure of uncertainty for each species or (2) the estimated maximum number of each species in the project area that may be taken. The best available scientific information does not allow us to pursue the Commission's analytical approach. Instead, we are confident that the information presently available is sufficient to support our negligible impact determination. The density information we used is from a U.S. Navy review of available marine mammal survey data for the eastern Gulf of Mexico (USDON, 2003). Those analyses do not quantify a single measure of variability for the density estimates provided. The Navy did, however, qualitatively assess certainty related to the derived density estimates using a decision-tree process, and the information used for our current assessment had the highest degree of certainty (i.e., was derived directly from line-transect survey data). See USDON, 2003 for more information.

The Commission also recommended that we require Port Dolphin to expand the size of the Level A harassment zone for buoy installation, pipeline burial, and pipe laying activities to at least 200 m. The Commission notes a 91-m Level A harassment zone in their rationale for this recommendation, but no shutdown zone related to underwater noise is planned for these activities. The 100-yd (91-m) shutdown zone referenced by the Commission is not a mitigation zone for sound, but relates to ship strike avoidance measures recommended for all vessels. These activity scenarios involve a modeled configuration of multiple working vessels, and it was not feasible to define fixed zones of ensonification within 200 m of the assumed scenario. Regardless, these activities produce relatively low levels of non-pulsed noise, and the risk of injury from these sounds is considered minimal, thereby allowing us to conclude that a shutdown zone for these types of activities is unnecessary. Further, a true shutdown zone is not practicable, as it is unlikely that these activities—involving multiple tugs and barges moving slowly while either laying or burying pipeline or anchoring the buoys, and thus essentially tethered to the bottom—could be quickly shut down in a way that would provide any benefit to marine mammals, who can move away from a potentially injurious sound source much more quickly than these activities could safely be shut down. See descriptions of these scenarios under Sound Thresholds, earlier in this document, and an analysis of potential impacts associated with these activities in the Negligible Impact and Small Numbers Analysis and Determination, later in this document.

Additional Comments and Responses

Comment 1: One commenter encourages us to consider including temporal restrictions (both seasonal and diurnal) in the mitigation strategy to further ensure that the activity results in negligible impact on the affected marine mammal stocks and populations.

Response: We agree that considerations of the temporal

distribution of animals and activities important to their life history are helpful in informing a mitigation strategy. As the commenter notes, Port Dolphin has already set up their construction timeline in part to avoid seasons when more animals will be present. However, we do not plan to restrict Port Dolphin's specific activities through binding measures, as the commenter suggests. As with any construction project, there is the possibility of delays beyond the control of the action proponent. While a shift in seasonality of certain activities could potentially result in higher levels of incidental take than anticipated, we prescribe monitoring so that we are aware of how much take is occurring and can thereby adaptively manage the action accordingly.

Comment 2: Another commenter states that incidental take should be estimated separately for the bay, sound, and estuarine stocks of bottlenose dolphins (hereafter referred to as ''bay dolphins'') due to increased vulnerability and unique characteristics found in these stocks compared to the coastal stocks.

Response: While we agree that this would be preferred, we do not believe that we have sufficient information to separately estimate incidental take for bay dolphin communities and for the coastal stock. Instead, we described what we know about the degree to which the specified activities might affect bay dolphins versus coastal dolphins, as well as discussing reasons why the anticipated effects would be expected to result in a negligible impact on bay dolphins in particular. That discussion is found on pages 55674–55675 of the proposed rulemaking.

The commenter feels that because we presented an abundance estimate for bay dolphins we should be able to specify how many of the anticipated incidences of incidental take might accrue to those particular dolphins. This abundance estimate was presented for reference only, as it cannot be considered current and is an aggregate estimate for the Tampa Bay and Sarasota Bay dolphin communities (which are considered separate). However, the primary problem is not in the lack of a current abundance estimate but in the fact that there is no dividing line beyond which we can say specifically which dolphins would be affected. Mixing is known to occur amongst bay dolphin communities (St. Joseph Sound-Clearwater Harbor, Tampa Bay, and Sarasota Bay-Little Sarasota Bay in this case, at minimum) and between those communities and coastal dolphins. Therefore, while we can say with certainty that the offshore activities will not affect bay dolphins, we have no information for inshore activities to indicate how many incidences of take may accrue to bay dolphins (and from which population) versus coastal dolphins.

The commenter appears to dispute that mixing occurs, noting that various bay dolphin populations have been demonstrated to be genetically distinct from each other and from coastal dolphins and that there are differences in reproductive seasonality between the various stocks. These points are valid but do not imply that mixing does not occur, as mixing does not imply interbreeding. Interactions of dolphins between neighboring areas are not uncommon, yet these groups are genetically distinct, as described in Sellas *et al.* (2005). Group sightings of resident Sarasota Bay dolphins have included non-resident dolphins, while the reverse is also true (i.e., group sightings of coastal dolphins have included Sarasota Bay dolphins). Mixed groups containing Sarasota Bay and Tampa Bay dolphins, and mixed groups containing Tampa Bay and coastal dolphins, are also commonly observed (Weigle, 1990; Wells, 1991).

The commenter takes further issue with our statement that bottlenose dolphins occurring in Tampa Bay are somewhat acclimated to disturbance and would not be expected to experience significant disruption to behavioral patterns on the basis of short-term and low-intensity disturbance. We agree that it is possible for animals in an environment with heavy human use to nevertheless be disturbed by industrial activity. However, in an environment where ambient sound levels may already be relatively high and significant industrial and recreational vessel traffic occurs (which produce continuous, non-pulsed sound), additional non-pulsed sound at relatively low levels and over short durations is unlikely to result in behavioral disturbance sufficient to negatively impact functions important to dolphins' life history. Behavioral disturbance is often related to context, and if there is some overriding contextual element (e.g., foraging opportunity) it is likely that dolphins will either avoid the area over only short durations or will simply continue feeding, for example. Also of concern was our statement that any takes are likely to represent repeated takes of individuals using the area where the activity is occurring, rather than each take being of a new individual. We do feel that this is an important factor to consider when making a negligible impact determination, as the activity is limited in both spatial extent and duration. A more pervasive activity, when resulting in behavioral disturbance only, could be of greater concern to the population as a whole. The commenter quotes a document from NMFS' Southeast Regional Office, which states that ''* * * human and/or natural impacts are often localized in certain areas creating more potential impacts on the health of that particular stock or smaller community rather than on the larger population.'' However, this quote (taken out of context) refers to dolphin mortalities, which are not expected to occur as a result of the specified activity and which are not authorized.

Comment 3: The commenter offers comment and requests clarification regarding certain monitoring and shutdown protocols.

Response: First, the commenter believes that in-water operations should be halted in conditions of inclement weather, when the observer would have sole responsibility for determining whether observations could continue, or at night, correctly noting that the measure cannot be implemented if the animal cannot be observed. In poor visibility, either the effectiveness of the measure is compromised or the applicant's ability to conduct the activity is restricted, requiring us to weigh the nature of the activity and its likely impact against the cost of the measure. For Port Dolphin, we have stipulated that impact pile driving, which we consider a potentially higher-impact activity, cannot occur at night and may not be initiated during other periods when visibility is poor (but may continue if already initiated). For the other activities, there are no such restrictions. We believe that these activities, which produce non-pulsed sound at lower levels, have little to no risk of injury and consequently nighttime shutdowns, which carry a significant cost for the applicant, are not warranted. Additional considerations include (1) That these sound sources are effectively continuous, meaning that marine mammals in the vicinity cannot be caught unawares by the advent of loud sound and would have full opportunity to avoid the sound, (2) that we would expect an animal to stay away from a sound-producing activity if the sound is negatively affecting the animal, and (3) nighttime shutdowns would significantly extend the overall temporal footprint of the project. As a result the commenter's approach could reduce incidences of take, but it would likely increase the overall number of individuals taken.

The commenter was also confused by our description of shutdowns for activities involving ''spreads'' of vessels. Please refer to our response under Comment 2 for an explanation. Finally, the commenter expressed concern over the shutdown exception for animals that voluntarily approach vessels. We believe that delphinids are sufficiently mobile to avoid strike by extremely slow-moving construction barges and support tugs and that the animals have the opportunity to avoid the area if the sound is disturbing.

Description of Marine Mammals in the Area of the Specified Activity

Twenty-nine marine mammals (28 cetaceans and the Florida manatee [*Trichechus manatus*]) have documented occurrences in the GOM (Wursig *et al.,* 2000). The manatee is under the jurisdiction of the U.S. Fish and Wildlife Service. Of the 28 cetaceans, the majority do not regularly occur in the nearshore depth stratum (0 to 37 m) where the specified activities are planned to occur. Only Atlantic spotted dolphins and bottlenose dolphins commonly occur in these areas and are expected to be affected by the specified activities. Detailed accounts for these species were provided in the **Federal Register** notice announcing the proposed rule (77 FR 55646; September 10, 2012); please see that document for more information.

The area of actual construction and operations for Port Dolphin is entirely contained within the nearshore depth stratum. Maximum depth at the DWP is approximately 31 m, while the pipeline route transits increasingly shallower waters until entering Tampa Bay and subsequently making landfall. However, while the actual construction activities will be entirely contained within the nearshore stratum, the sound field produced by offshore pipelaying activity, which would occur only from late summer 2013 through early winter 2013–14, extends into the mid-shelf depth stratum (37 to 91 m). The Level B sound field for this activity would be 99.9 percent contained within the nearshore stratum, with 0.1 percent potentially entering the mid-shelf stratum. Dwarf and pygmy sperm whales and rough-toothed dolphins may be expected to occur in the mid-shelf stratum on a seasonal basis but are not expected to experience incidental harassment from project activities based on the small amount of the sound field expected to overlap the stratum and the low seasonal densities in that stratum for these species.

Potential Effects of the Specified Activity on Marine Mammals

We have determined that the specified activities, as outlined in the project description, have the potential to result in behavioral harassment of marine mammals that may be present in the project vicinity while the activities are being conducted. The September 10, 2012, Proposed Rule (77 FR 55646) provided a detailed description of marine mammal hearing and of the potential effects of these activities on marine mammals.

Anticipated Effects on Habitat

The specified activities could have some impacts on marine mammal habitat, primarily by producing temporary disturbances through elevated levels of underwater sound, and to a lesser extent, temporarily reduced water quality and temporary and permanent physical habitat alteration. These impacts are not expected to have tangible direct effects to marine mammals, but could result in minor effects to fish or other elements of the marine mammal prey base. Elevated levels of sound may be considered to affect the habitat of marine mammals through impacts to acoustic space or via impacts to prey species. The direct loss of habitat available during construction due to sound impacts is expected to be minimal. The FR notice (77 FR 55646; September 10, 2012) describes these potential impacts in greater detail.

Mitigation

In order to issue an incidental take authorization under section 101(a)(5)(A) of the MMPA, we must, where applicable, set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (where relevant). NMFS and Port Dolphin worked to devise a number of mitigation measures designed to minimize impacts to marine mammals to the level of least practicable adverse impact, described in the following and in Port Dolphin's Marine Protected Species Management Plan; please see Appendix B of Port Dolphin's application to review that plan in detail.

In addition to the measures described later, Port Dolphin will employ the following standard mitigation measures:

- All work will be performed according to the requirements and conditions of the regulatory permits issued by federal, state, and local governments.
- Briefings will be conducted between the Port Dolphin project construction supervisors and the crew, protected species observer(s) (PSO), and acoustical monitoring team (when present) prior to the start of all discrete construction activities, and when new personnel join the work, to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.
- Port Dolphin will comply with all applicable equipment sound standards and ensure that all construction equipment has sound control devices no less effective than those provided on the original equipment. In addition, vessel crew and contractors will be required to minimize sound to the extent possible. Equipment and/or procedures used may include the use of enclosures and mufflers on equipment, minimizing the use of thrusters, and turning off engines and equipment when not in use.

Best Management Practices developed by NMFS and other agencies to reduce the potential for impacts related to line and cable entanglement and marine debris, as well as to reduce potential impacts to habitat, were discussed in detail in the preamble to the proposed rulemaking and are not discussed here. Additional mitigation measures, which are discussed in greater detail below, include a visual monitoring program (marine mammal watch) and vessel strike avoidance measures.

Monitoring and Shutdown

The modeling results for acoustic zones of influence (ZOIs; described in following sections) were used to develop mitigation measures for the proposed activities. Those zones will initially be set at the distances derived through modeling (or be larger than those distances), but may be adjusted as necessary on the basis of acoustic monitoring conducted by Port Dolphin in order to verify source levels and local acoustic propagation characteristics (see Monitoring and Reporting, later in this document). The ZOIs effectively represent the mitigation zone that will be established around each activity to prevent Level A harassment and to monitor authorized Level B harassment of marine mammals.

Shutdown zones (to include areas where SPLs equal or exceed 180 dB rms) and disturbance zones (defined as where SPLs equal or exceed 120 dB or 160 dB rms for non-pulsed or pulsed sound sources, respectively) were described in detail in the **Federal Register** notice announcing the

proposed rule (77 FR 55646; September 10, 2012). Such zones will be established for each specified activity, with certain exceptions. In response to comments, the exceptions are clarified. Certain activities are not discrete, but rather involve the combination of multiple vessels and pieces of equipment modeled in concert and spread over variable distances as the activity moves along the pipeline route, for example. These activities, including buoy installation (which does not include impact pile diving of buoy anchors) and pipeline laying and burial, do not have an associated shutdown zone for Level A harassment resulting from sound. These activities must adhere to ship strike avoidance measures, but the Level A harassment shutdown zone is not practicable, for reasons described in our response to Comment 2, above. In addition, no shutdown zone for Level A harassment will be required for port operations (i.e., SRV maneuvering at the DWP). Similar to the construction activities described above, SRV maneuvering is expected to produce continuous, non-pulsed sound that does not carry the significant potential for Level A harassment and which allows marine mammals ample time to move away from the stimulus. Implementation of this shutdown zones for operations is not practicable for a variety of reasons, nor does it carry meaningful conservation value.

Level B harassment zones for all construction activities and Level A harassment zones for discrete construction activities (impact and vibratory pile driving, HDD) will initially conform to those distances specified in Table 4, with the exception that the shutdown zone for impact pile driving shall be 250 m. Radial distances to shutdown zones for HDD activities were predicted to be less than 10 m. In most cases, the disturbance zone is of sufficient size to make comprehensive monitoring impracticable (the largest radial distance of 12.6 km), although PSOs will be aware of the size and location of the modeled zone and will record any observations made within the zone as takes.

Monitoring Protocols

The established zones will be monitored by qualified PSOs for mitigation purposes, as described here. Port Dolphin's marine mammal monitoring plan (see Appendix B of Port Dolphin's application) will be implemented, requiring collection of sighting data for each marine mammal observed during the specified construction activities described in this document.

At least two PSOs will conduct monitoring of shutdown and disturbance zones for all concurrent specified construction activities during daylight hours (civil dawn to civil dusk). PSOs will have no other duties for the duration of the watch. Shutdown and disturbance zones will be monitored from an appropriate vantage point that affords the PSOs an optimal view of the sea surface while not interfering with operation of the vessel or in-water activities. Full observation of the shutdown zone will occur for the duration of the activity.

Monitoring will occur before, during, and after the activity, beginning 30 minutes prior to initiation and concluding 30 minutes after the activity ends. If marine mammals are present within the shutdown zone prior to initiation, the start will be delayed until the animals leave the shutdown zone of their own volition, or until 30 minutes elapse without resighting the animal(s). PSOs will be on watch at all times during daylight hours when in-water operations are being conducted, unless conditions (e.g., fog, rain, darkness) make observations impossible (as determined by the lead PSO). If conditions deteriorate during daylight hours such that the sea surface observations are halted, visual observations must resume as soon as conditions permit. While activities will be permitted during low-visibility conditions, they (1) must have been initiated following proper clearance of the ZOI under acceptable observation conditions; and (2) must be restarted, if halted for any reason, using the appropriate ZOI clearance procedures.

If a marine mammal is observed approaching or entering the shutdown zone, the PSO will call for the immediate shutdown of in-water operations. The equipment operator must comply with the shutdown order unless human safety is at risk. Any disagreement must be resolved after the shutdown takes place. Construction operations will be discontinued until the animal has moved outside of the shutdown zone. The animal will be determined to have moved outside the shutdown zone through visual confirmation by a qualified PSO or after 15 minutes have elapsed since the last sighting of the animal within the shutdown zone. The following additional measures will apply to visual monitoring:

- Monitoring will be conducted using binoculars and the unaided eye. The limits of the designated ZOI will be determined using binocular reticle or other equipment (e.g., electronic rangefinder, range stick). A GPS unit or range finder will be used for determining the observation location and distance to marine mammals and sound sources.
- Each PSO will have a dedicated two-way radio for contact with the other PSO or field operations manager.

Whenever a marine mammal species is observed, the PSO will note and monitor the position (including relative bearing and estimated distance to the animal) until the animal dives or moves out of visual range of the PSO. The PSO will continue to observe for additional animals that may surface in the area. Often, there are numerous animals that may surface at varying time intervals. Records will be maintained of all marine mammal species sightings in the area, including date and time, weather conditions, species identification, approximate distance from the activity, direction and heading in relation to the activity, and behavioral correlation to the activity. For animals observed in the shutdown zone, additional information regarding actions taken, such as duration of the shutdown, behavior of the animal, and time spent in the shutdown zone will be recorded. During pile driving activities, data regarding the type of pile driven (e.g., material construction and pile dimensions), type and power of the hammer used, number of cold starts, strikes per minute, and duration of the pile driving activities will be recorded.

Monitoring will be conducted by qualified PSOs. In order to be considered qualified, PSOs must meet the following criteria:

- Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target.
- Advanced education in biological science, wildlife management, mammalogy, or related fields (bachelor's degree or higher is required).
- Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience).
- Experience or training in the field identification of marine mammals, including the identification of behaviors.
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations.
- Writing skills sufficient to prepare a report of observations, including, but not limited to, the number and species of marine mammals observed; dates and times when in-water construction

activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior.

• Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

Pile Driving

Mitigation measures specific to pile driving will include use of (1) a sound attenuation device and (2) ramp-up procedures. In addition, the power of impact hammers will be reduced to minimum energy levels required to drive a pile, thus reducing the amount of sound produced in the marine environment. As for other construction activities, vibratory pile driving may continue into nighttime hours/low-visibility conditions only if ramp-up protocols have been conducted under acceptable observation conditions. Impact pile driving may occur only during daylight hours of good visibility (such that the full shutdown zone is visible). In the event of a shutdown during low-visibility conditions, the pile driving cannot resume until visual monitoring activities are resumed under acceptable observation conditions. The minimum shutdown zone for impact pile driving will be established conservatively at 250 m.

One or more sound attenuation device(s) will be utilized during all impact pile driving activities needed to install components of the STL buoys at the deepwater port. The sound attenuation device(s) will be selected and designed by the marine construction and design contractor(s), but will likely be either a bubble curtain or a temporary sound attenuation pile (TNAP), potentially used in conjunction with cushion block.

The objective of a ramp-up is to alert any animals close to the activity and allow them time to move away, which is expected to expose fewer animals to loud sounds. This procedure also ensures that any marine mammals missed during shutdown zone monitoring will move away from the activity and not be injured. The following ramp-up procedures will be used for in-water pile installation:

• To allow any marine mammals that may be in the immediate area to leave before pile driving reaches full energy, a ramp-up technique will be used at the beginning of each day's in-water pile driving activities or if pile driving has ceased for more than 1 hour.

• If a vibratory driver is used, contractors will be required to initiate sound from vibratory hammers for 15 seconds at reduced energy followed by a 1-minute waiting period. The procedure will be repeated two additional times before full energy may be achieved.

• If a non-diesel impact hammer is used, contractors will be required to provide an initial set of strikes from the impact hammer at reduced energy, followed by a 1-minute waiting period, then two subsequent sets.

• If a diesel impact hammer is used, contractors will be required to turn on the sound attenuation device (e.g., bubble curtain or other approved sound attenuation device) for 15 seconds prior to initiating pile driving to flush marine mammals from the area.

Vessel Strike Avoidance

Several construction and support vessels will be used during construction activities. Vessel activities, including transits, may not be subject to the shutdown protocols and/or visual monitoring described previously in this section. Consequently, there is the possibility for vessel strikes of protected species to occur within the project area. Port Dolphin will inform all personnel associated with the project of the potential presence of protected species. All vessel crew members and contractors will participate in training for protected species presence and emergency procedures in the unlikely event a protected species is struck by a vessel. Construction and support vessels will follow the NMFS Vessel Strike Avoidance Measures and Reporting for Mariners. Standard measures will be implemented to reduce the risk associated with vessel strikes.

The following vessel strike mitigation measures for cetaceans for active construction/installation vessel operations will be implemented during project activities:

• Vessel operators and crews must maintain a vigilant watch for marine mammals and slow down or stop their vessels, to the extent possible as dictated by safety concerns, to avoid striking sighted protected species.

• Construction or support vessels, while underway, will remain 100 yd (91 m) from all marine mammals to the extent possible.

• If a marine mammal is within 15 m of a construction or support vessel underway, all operations will cease until it is > 100 yd from the vessel. If the marine mammal is observed within 100 yd of an active construction or support vessel underway, the vessel will cease power to the propellers as long as sea conditions permit for safety. After the marine mammal leaves the area the vessel will proceed with caution, following the guidelines below:

■ Resume vessel at slow speeds while avoiding abrupt changes in direction,

■ Stay on parallel course with the marine mammal, following behind or next to at an equal or lesser speed,

■ Do not cross the path of the animal,

■ Do not attempt to steer or direct the marine mammal away,

■ If a marine mammal exhibits evasive or defensive behavior, stop the vessel until the marine mammal has left the immediate area, and

■ Do not allow the vessel to come between a mother and her calf.

• Cetaceans can surface in unpredictable locations or approach slowly moving vessels. When an animal is sighted in the vessel's path or in close proximity to a moving vessel, the Master will reduce speed and shift the engine to neutral and will not engage the engines until the animals are clear of the area.

• If a sighted marine mammal is believed to be a North Atlantic right whale, federal regulation requires a minimum distance of 500 yd (457 m) from the animal be maintained (50 CFR 224.103 (c)).

• Practical speeds will be maintained to the extent possible. Guidelines for speeds include the following:

■ Reduce vessel speed to 10 kn or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near an underway vessel, when safety permits. A single cetacean at the surface can indicate the presence of submerged animals in the vicinity of the vessel; therefore, prudent precautionary measures should always be exercised.

■ No wake/idle speeds where the draft of the vessel provides less than a 4-ft (1.2-m) clearance from the bottom. All vessels will follow deep-water routes whenever possible.

■ All construction vessels transiting to and from the port from shore will not exceed 14 kn during regular operations.

■ Avoid sudden changes in speed and direction.

■ Speeds approaching and departing the buoys will be reduced to 10 kn maximum.

■ Speeds during installation will be well under 14 kn; vessels may be stationary during certain phases of installation.

• If a collision seems likely, emergency collision procedures will be followed.

• Members of the vessel crew will be encouraged to undergo NMFS training

prior to activity, including instruction in reporting procedures, collision emergency procedures, and marine mammal presence detection (surfacing near wake).

• During construction of the facility, an Environmental Coordinator will be on site and responsible for communicating with NMFS and other relevant agencies, as appropriate.

• During construction/installation, transiting vessels will have lookouts required to scan for surfacing marine mammals and report sightings to the Master, who will notify the Environmental Coordinator.

• Offshore vessel activities not required to implement visual monitoring protocols described previously in this document will be temporarily terminated if marine mammals were observed in the area and there is the potential for harm of an individual. The Environmental Coordinator will be called in to determine the appropriate course of action.

Lighting—Measures will be implemented to minimize the attraction of marine mammals to the project area and prevent potential impacts to protected species from nighttime lighting. Lighting will be down-shielded to prevent unnecessary upward illumination while illuminating the vessel decks only. To the extent possible, they will not illuminate surrounding waters. Lighting used during all activities will be regulated according to USCG requirements, without using excessive wattage or quality of lights. Once an activity is completed, all lights used only for that activity will be extinguished.

Conclusions

We have carefully evaluated these mitigation measures and considered a range of other measures in the context of ensuring that we prescribe the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

• The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;

• The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and

• The practicability of the measure for applicant implementation.

Based on our evaluation of potential measures, we have determined that these mitigation measures provide the means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

Section 101(a)(5)(A) of the MMPA states that in order to issue an incidental take authorization (ITA) for an activity, we must, where applicable, set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

Port Dolphin provided a protected species monitoring plan in their application (see Appendix B of Port Dolphin's application), and all monitoring methods identified herein have been developed through coordination between NMFS and Port Dolphin. The methods are based on the parties' professional judgment supported by their collective knowledge of marine mammal behavior, site conditions, and proposed project activities. Any modifications to this protocol will be coordinated with NMFS. A summary of the plan, as well as the proposed reporting requirements, is contained here.

The intent of the monitoring plan is to:

• Comply with the requirements of the MMPA Letter of Authorization as well as the ESA section 7 consultation;

• Avoid injury to marine mammals through visual monitoring of identified shutdown zones; and

• To the extent possible, record the number, species, and behavior of marine mammals in disturbance zones for the proposed activities.

Monitoring for marine mammals will be conducted in specific zones established to avoid or minimize effects of elevated levels of sound created by the specified activities. Initial shutdown and disturbance zones will largely be based on the applicant's modeled values. Non-stationary activities will conform to NMFS Vessel Strike Avoidance Measures and Reporting for Mariners (i.e., 100 yd)—a distance much larger than actual areas ensonified to 180 dB rms or greater. However, avoidance requirements will not be triggered upon voluntary approach by small marine mammals (i.e., delphinids). The actual zone monitored for disturbance will be based upon logistical considerations, as described previously in this document, as the full disturbance zones will be so large as to make monitoring impracticable. Zones may be modified on the basis of actual recorded SPLs from acoustic monitoring.

In cooperation with NMFS, Port Dolphin has supplemented the visual monitoring program with an acoustic monitoring program that will be conducted primarily to verify the sound source levels and local acoustic propagation characteristics that were assumed in the acoustic modeling.

Acoustic Monitoring

Port Dolphin will implement an acoustic monitoring program during construction and operation of the deepwater port and appurtenant marine facilities. Please see Port Dolphin's Sound Level Verification Plan (see Supplemental Information) for more detail. The objectives of this program are to: (1) Empirically measure the sound source levels associated with project activities and verify estimated source levels used in modelling, and (2) empirically determine ranges to relevant threshold levels, verifying the accuracy of the acoustic propagation model that was used to predict the size of sound fields generated by construction and operation of the port. Ambient sound levels will also be measured when no project activities are occurring. The acoustic monitoring program was described in detail in the proposed rule (77 FR 55646; September 10, 2012); please see that document for more information.

Visual Monitoring

Visual monitoring of relevant zones will be conducted as described previously (see 'Mitigation'). Shutdown or delay of activities will occur as appropriate. The monitoring biologists will document all marine mammals observed in the monitoring area. Data collection will include a count of all marine mammals observed by species, sex, age class, their location within the zone, and their reaction (if any) to construction activities, including direction of movement, and type of construction that is occurring, time that activity begins and ends, any acoustic or visual disturbance, and time of the observation. Environmental conditions such as wind speed, wind direction, visibility, and temperature will also be recorded. No monitoring will be conducted during inclement weather that creates potentially hazardous

conditions, as determined by the PSO(s). No monitoring will be conducted when visibility is significantly limited, such as during heavy rain or fog. During these times of inclement weather, in-water work that may produce sound levels in excess of 180 dB rms may continue, but may not be started. Impact pile driving shall not occur when visibility is significantly limited.

All monitoring personnel must have appropriate qualifications as identified previously. These qualifications include education and experience identifying marine mammals and the ability to understand and document marine mammal behavior. All monitoring personnel will meet at least once for a training session provided by Port Dolphin, and Port Dolphin will be responsible for verifying to NMFS that PSOs meet the minimum qualifications described previously. Topics will include, at minimum, implementation of the monitoring protocol, identification of marine mammals, and reporting requirements. All monitoring personnel will be provided a copy of the LOA. Monitoring personnel must read and understand the contents of the LOA as they relate to coordination, communication, and identifying and reporting incidental harassment of marine mammals. All sightings must be recorded on approved marine mammal field sighting logs.

Monitoring will occur for construction operations only. There is no feasible mechanism for placing qualified observers aboard the SRVs, which will be arriving from the high seas and which will not require a harbor pilot because the port is in deep water. Therefore, the only monitoring and reporting for operations will be for acoustic data and for any ship strike reporting.

Reporting

Reports of data collected during monitoring will be submitted to NMFS weekly. In addition, a final report summarizing all marine mammal monitoring and construction activities will be submitted to NMFS annually. The report will include:

- All data described previously under monitoring, including observation dates, times, and conditions; and
- Correlations of observed behavior with activity type and received levels of sound, to the extent possible.

Port Dolphin will also submit a report(s), as necessary, concerning the results of all acoustic monitoring. The final report for acoustic monitoring of construction activities will be provided at the completion of all marine construction activities. Reporting for acoustic monitoring of operational activities will be provided at the completion of the commissioning period for each new SRV servicing the port. Port Dolphin will submit these reports to NMFS within 60 working days of the completion of each monitoring event.

Acoustic monitoring reports will include:

- A detailed description of the monitoring protocol;
- A description of the sound monitoring equipment;
- Documentation of calibration activities;
- The depth of water at the hydrophone locations and the depth of the hydrophones;
- The background SPL reported as the 50 percent cumulative density function;
- A summary of the data recorded during monitoring; and
- Analysis of the recorded data and conclusions.

Analysis of the data should include the frequency spectrum, ranges and means including the standard deviation/error for the peak and rms SPLs, and an estimation of the distance at which rms values reach the relevant marine mammal thresholds and background sound levels. Vibratory driving results will include the maximum and overall average rms calculated from 30-s rms values during driving of the pile. In addition, for pile driving, the report will include:

- Size and type of any piles driven, correlated with SPLs;
- A detailed description of any sound attenuation device used, including design specifications;
- The impact hammer energy rating used to drive the piles, make and model of the hammer(s), and description of the vibratory hammer;
- The physical characteristics of the bottom substrate into which the piles were driven; and
- The total number of strikes to drive each pile.

During all phases of construction activities and operation, sightings of any injured or dead marine mammals will be reported immediately (except as described later in this section) to the NMFS Southeast Region Marine Mammal Stranding Network, regardless of whether the injury or death is caused by project activities. In addition, if a marine mammal is struck by a project vessel (e.g., SRV, support vessel), or in the unanticipated event that project activity clearly resulted in the injury, serious injury, or death (e.g., gear interaction, and/or entanglement) of a marine mammal, USCG and NMFS must be notified immediately, and a full report must be provided to NMFS, Southeast Regional Office, and NMFS, Office of Protected Resources. The report must include the following information: (1) The time, date, and location (latitude/longitude) of the incident; (2) the name and type of vessel involved, if applicable; (3) the vessel's speed during and leading up to the incident, if applicable; (4) a description of the incident; (5) water depth; (6) environmental conditions (e.g., wind speed and direction, sea state, cloud cover, visibility); (7) the species identification or description of the animal(s) involved; (8) the fate of the animal(s); and (9) photographs or video footage of the animal (if equipment is available). Following such an incident, activities must cease until we are able to review the circumstances of the incident. We will work with Port Dolphin to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Port Dolphin may not resume activity until notified to do so by NMFS. If a prohibited take should occur, the NMFS Office of Law Enforcement and the Florida Fish and Wildlife Conservation Commission law enforcement will be notified.

In the event that an injured or dead marine mammal is discovered, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as described in the next paragraph), Port Dolphin will immediately report the incident to NMFS, Office of Protected Resources. The report must include the same information identified in the preceding paragraph. However, activity may continue while we review the circumstances of the incident, and we will work with Port Dolphin to determine whether modifications to the activities are appropriate. If the lead PSO determines that the discovered animal is not associated with or related to project activities (e.g., previously wounded animal, carcass with moderate to advanced decomposition, scavenger damage), Port Dolphin will report the incident to NMFS, Office of Protected Resources, within 24 hours of the discovery. Port Dolphin should provide photographs or video footage (if available) or other documentation of the sighting. Activities may continue while we review the circumstances of the incident.

An annual report on marine mammal monitoring and mitigation will be submitted to NMFS, Office of Protected Resources, and NMFS, Southeast Regional Office, each year. The weekly

and annual reports will include data collected for each distinct marine mammal species observed in the project area. Description of marine mammal behavior, overall numbers of individuals observed, frequency of observation, and any behavioral changes and the context of the changes relative to activities will also be included in the annual reports. Additional information that will be recorded during activities and contained in the reports include: date and time of marine mammal detections, weather conditions, species identification, approximate distance from the source, and activity at the construction site when a marine mammal is sighted.

In addition to annual reports, Port Dolphin will submit a draft comprehensive final report to NMFS, Office of Protected Resources, and NMFS, Southeast Regional Office, 180 days prior to the expiration of the regulations. This comprehensive technical report will provide full documentation of methods, results, and interpretation of all monitoring during the first 4.5 years of the regulations. A revised final comprehensive technical report, including all monitoring results during the entire period of the regulations will be due 90 days after the end of the period of effectiveness of the regulations.

Adaptive Management

The final regulations governing the take of marine mammals incidental to the specified activities at Port Dolphin contains an adaptive management component. In accordance with 50 CFR 216.105(c), these regulations are based on the best available information. As new information is developed, through monitoring, reporting, or research, the regulations may be modified, in whole or in part, after notice and opportunity for public review. The use of adaptive management will allow us to consider new information from different sources to determine if mitigation or monitoring measures should be modified (including additions or deletions) if new data suggest that such modifications are appropriate for subsequent LOAs.

The following are some of the possible sources of applicable data:

- Results from Port Dolphin's monitoring from the previous year;
- Results from general marine mammal and acoustics research; or
- Any information which reveals that marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

If, during the effective dates of the regulations, new information is presented from monitoring, reporting, or research, these regulations may be modified, in whole, or in part after notice and opportunity of public review, as allowed for in 50 CFR 216.105(c). In addition, LOAs will be withdrawn or suspended if, after notice and opportunity for public comment, the NOAA's Assistant Administrator for Fisheries finds, among other things, that the regulations are not being substantially complied with or that the taking allowed is having more than a negligible impact on the species or stock, as allowed for in 50 CFR 216.106(e). That is, should substantial changes in marine mammal populations in the project area occur or monitoring and reporting show that Port Dolphin actions are having more than a negligible impact on marine mammals, then we reserve the right to modify the regulations and/or withdraw or suspend LOAs after public review.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: ''any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].'' Take by Level B harassment only is anticipated as a result of Port Dolphin's specified activities. Take of marine mammals is anticipated to occur as a result of elevated levels of sound from the previously described activities associated with construction and installation of the port and from port operations. No take by injury, serious injury, or death is anticipated or authorized. Estimation of incidental take was described in greater detail in the **Federal Register** notice announcing the proposed rule (77 FR 55646; September 10, 2012); please see that document for more information.

As described previously in the ''Distance to Sound Thresholds'' section of this document, JASCO Research modeled a series of scenarios that thoroughly characterize the various construction/installation and operation activities expected. JASCO used proxy sound sources selected from a database of underwater sound measurements. The selected proxy sound sources were input to a sound propagation model with multiple parameters, including expected water column sound speeds, bathymetry, and bottom geoacoustic properties, to estimate the radii of sound impacts (JASCO, 2008, 2010). Note that for some scenarios, 180-dB threshold values only occur in the immediate vicinity of individual pieces of equipment that combine to form a construction ''spread,'' or modeled scenario, with little or no overlap of the sound fields from neighboring vessels. These scenarios are for transient activities—for example, pipelaying and burial activities require a spread of vessels and equipment (e.g., barges, tugs) rather than a single point source of sound. These modeled scenarios combine the sound output from multiple vessels/pieces of equipment. The overall radius depends primarily on the spacing between the vessels, and a single scenario-specific radius for the 180-dB threshold cannot accurately be defined. Please see Appendices C and D in Port Dolphin's application for a detailed description of this sound source modeling and Appendix E for a graphical depiction of the sound fields from various activities.

Density of marine mammals in the project area was derived from a U.S. Navy review of available marine mammal survey data for the eastern Gulf of Mexico which summarized species presence and distribution on a seasonal basis (USDON, 2003). As described previously, marine mammal densities are determined on the basis of both seasonality and depth stratum. Densities for marine mammals that are expected to be affected by the specified activities are presented in Table 5

TABLE 5—DENSITY ESTIMATES FOR MARINE MAMMALS IN THE NEARSHORE DEPTH STRATUM, EASTERN GOM

Species	Density (Individuals/100 km^2 (39 mi^2))			
	Winter	Spring	Summer	Fall
Atlantic spotted dolphin	2.243	10.752	2.524	[1] 10.752

TABLE 5—DENSITY ESTIMATES FOR MARINE MAMMALS IN THE NEARSHORE DEPTH STRATUM, EASTERN GOM—Continued

Species	Density (Individuals/100 km² (39 mi²))			
	Winter	Spring	Summer	Fall
Bottlenose dolphin	10.913	21.986	8.241	26.744

[1] No density estimate is available for Atlantic spotted dolphins in fall in the nearshore depth stratum. The largest estimate (spring) is conservatively used as a proxy.
Source: USDON, 2003.

Incidental take estimates are calculated based on: (1) The number of marine mammals, using species- and season-specific density estimates; (2) the areal extent of Level A and Level B sound fields, by sound source; and (3) the time or distance component of the activity. Areas of ensonification, by appropriate threshold, are presented in Table 4. With regard to the fourth component (time/distance), there are two types of construction activities: stationary and transient. Stationary activities will occur near specific sites (e.g., locations for buoy installation), while transient activities will occur while traveling along a pre-determined trackline (i.e., the pipeline route). Incidental take associated with stationary activities is determined by considering the estimated number of days of effect. Buoy installation, impact pile driving, and vibratory pile driving activities are expected to take 6, 32, and 8 days, respectively. The pre-determined pipeline route along which the pipelaying and burial activities will occur is approximately 72 km long (37 km offshore, 35 km inshore). For these transient activities, the overall area of effect (i.e., distance × width of ensonified area) is used in calculating estimated incidental take.

For stationary activities, season-specific estimated take was determined by first multiplying the modeled ZOI (i.e., the area ensonified using the appropriate thresholds) and the appropriate species-specific seasonal densities. These results were then rounded to the nearest whole number and multiplied by the estimated number of days of effect to provide an estimate of take.

For transient activities, season-specific estimated take was determined by multiplying the overall area of effect for offshore and inshore portions, respectively, by the appropriate density and, because some of these activities are expected to occur during multiple seasons, by the proportion of trackline expected to be completed during a given season. For offshore pipelaying, approximately 43 percent of effort is expected to occur during summer and 57 percent during fall. The inshore portion would occur entirely during fall. For offshore pipe burial, approximately 12 percent of effort is expected to occur during fall with 88 percent occurring during winter. The inshore portion would occur entirely during winter. The results of take estimation calculations for bottlenose dolphins and spotted dolphins for construction activities are shown in Table 6.

TABLE 6—ESTIMATED INCIDENTAL TAKE, CONSTRUCTION ACTIVITIES

Activity	Season	Species	
		Atlantic spotted dolphin	Bottlenose dolphin
Buoy installation	Summer	6	24
Impact pile driving	Summer	64	160
Pipelaying—Offshore	Summer	6	20
	Fall	34	85
Pipelaying—Inshore	Fall	45	112
Pipeline burial—Offshore	Fall	8	20
	Winter	12	60
Pipeline burial—Inshore	Winter	11	51
Vibratory pile driving	Summer	104	328
Total, by species		290	860

When the Port reaches operational status, an estimated 46 SRV visits will occur per year. Visits will be equally distributed across seasons, with 12 visits expected during winter and summer seasons and 11 visits per season during spring and fall. Each visit includes arrival and departure of the SRV, so 46 visits would result in 92 episodes that may result in incidental take. The results of take estimation calculations for operational activities, for a given year, are shown in Table 7.

TABLE 7—ESTIMATED YEARLY INCIDENTAL TAKE, PORT OPERATIONS

Activity	Season	Trips	Atlantic spotted dolphin		Bottlenose dolphin	
			Single visit [1]	Seasonal	Single visit [1]	Seasonal
SRV maneuvering	Summer	12	2	24	7	84
	Fall	11	9	99	22	242
	Winter	12	2	24	9	108

TABLE 7—ESTIMATED YEARLY INCIDENTAL TAKE, PORT OPERATIONS—Continued

Activity	Season	Trips	Atlantic spotted dolphin		Bottlenose dolphin	
			Single visit [1]	Seasonal	Single visit [1]	Seasonal
	Spring	11	9	99	18	198
Totals [2]		46		246		632

[1] Single-visit take calculated by multiplying appropriate density and appropriate area, then doubling the result to account for arrival and departure of the SRV in a single trip.
[2] Total represents the single visit take multiplied by the total number of trips.

Given that this rule will be in effect during 1 year of construction and 4 years of operations, the total estimated taking, by Level B harassment only, is 1,274 Atlantic spotted dolphins and 3,388 bottlenose dolphins.

Negligible Impact and Small Numbers Analysis and Determination

NMFS has defined ''negligible impact'' in 50 CFR 216 as '' * * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' In making a negligible impact determination, we consider a variety of factors, including but not limited to: (1) The number of anticipated mortalities; (2) the number and nature of anticipated injuries; (3) the number, nature, intensity, and duration of Level B harassment; and (4) the context in which the takes occur.

Incidental take, in the form of Level B harassment only, is likely to occur primarily as a result of marine mammal exposure to elevated levels of sound resulting from the specified activities. No take by injury, serious injury, or death is anticipated or authorized. The expected impacts from this activity would be Level B harassment in the form of behavioral disturbance resulting in, for example, changed direction or speed, or temporary avoidance of an area. Anticipated behavioral disturbance is likely to be of low intensity due to the sound source characteristics—the majority of activities considered here would produce low source levels of non-pulsed sound that would be either intermittent or transient—and relatively short in duration associated with the specified activities. For the same reasons, no individual marine mammals are expected to incur any hearing impairment, whether temporary or permanent in nature. That is, non-pulsed sound does not produce the rapid rise times that are more likely to produce hearing impairment in marine mammals, and the low intensity of the sources would result in Level A isopleths within a short distance. Several activities would produce source levels below those considered capable of causing hearing impairment, even in close proximity to marine mammals. The shutdown zone monitoring planned as mitigation, and the small size of the zones in which injury may occur, further reduces the potential for any injury of marine mammals, making the possibility of hearing impairment extremely unlikely and therefore discountable.

For the greater portion of the life of this proposed rule (i.e., 4 years remaining after the first year of construction), only port operations would occur. Each episode of SRV arrival/departure (requiring thruster use for a period of several hours) would be separated by approximately 8 days of regasification, an activity not expected to result in incidental take. The likely effects of behavioral disturbance from port operations are minor, as many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel (24-hour) cycle. Behavioral reactions to sound exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Operational activities would occur on a single day (i.e., arrival or departure of a SRV), would not recur for a period of 8 days, and, as for the majority of construction activities, would produce only low levels of non-pulsed sound. NMFS' current criterion for Level B harassment from non-pulsed, underwater sound levels (the vast majority of sound produced by the proposed activities) is 120 dB rms. However, not all marine mammals react to sounds at this low level, and many will not show strong reactions (and in some cases any reaction) until sounds are much stronger.

Neither the bottlenose dolphin nor spotted dolphin is listed under the ESA. However, we consider each bay, sound, and estuary stock of bottlenose dolphins (including those in Tampa Bay/Sarasota Bay) to be strategic under the MMPA. NMFS is in the process of writing individual stock assessment reports for each of the 32 bay, sound and estuary stocks of bottlenose dolphins, but none has been completed for the Tampa Bay/Sarasota Bay populations. There is insufficient data to determine population trends or status of the relevant stocks relative to optimum sustainable population. The specified activities will not take place in any known areas of significance for the impacted species (*i.e.*, the activities should not have any specific impact on the animals' feeding or breeding).

The maximum estimated take per year of Atlantic spotted dolphins (290) would be small relative to the stock size (37,611; 0.1 percent); this would decline for subsequent years of operations. As a result, only small numbers of Atlantic spotted dolphins would be taken. For bottlenose dolphins, the maximum estimated total take per year for all bottlenose dolphins (860) is small relative to the coastal stock size (7,702; 11 percent); this would decline for subsequent years of operations. As a result, only small numbers of bottlenose dolphins from the coastal stock could be taken. However, it is difficult to partition potential takings between the coastal stock and the smaller bay stocks (for which current abundance estimates are not available) because the possibility for mixing of the stocks precludes any quantitative understanding of how the total estimated taking might be apportioned between stocks. An unknown, but possibly large, number of coastal stock dolphins may be mixing in inshore waters at any given time. However, we can qualitatively assess the estimated incidental take in relative terms and have been able to determine that the number is small compared to the overall population. Only a portion of the estimated incidental takes can potentially accrue to bay dolphins, because much of the project will occur in offshore waters and, because individuals from all stocks in the area (coastal stock; Tampa Bay, Sarasota Bay-Little Sarasota Bay, and Clearwater Harbor-St. Joseph Sound stocks) are

present in the action area, only a portion of dolphins affected by inshore activities would be expected to be from the Tampa Bay stock. In addition, the Tampa Bay stock of dolphins is likely to be comprised of five discrete communities (Urian *et al.,* 2009), one of which does not occur in the portion of the Bay affected by the specified activities thereby further limiting the number of Tampa Bay dolphins that are likely to be exposed to project activities.

Next, we compared the area in which the various bay dolphin stocks may occur to the area affected by project activities. The total area in which the bay dolphins are likely to occur is approximately 1,638 km^2, including waters of the Tampa Bay, Sarasota Bay and St. Joseph Sound estuaries, as well as coastal waters out to 2 km from shore. Pipe laying/pipe burial would ensonify a maximum of approximately 27 km^2 within the 2 km from shore (inside of Tampa Bay any sound produced by these activities would overlap with sound produced by vibratory driving). Vibratory driving, which will occur entirely within Tampa Bay, is predicted to produce sound that would attenuate to less than 120 dB rms at 12.6 km from the activity. However, that distance cannot be attained in all directions from the planned activity locations due to shoreline topography. Therefore, the actual area of ensonification would be significantly less than is implied by the modeled distance, a maximum of approximately 300 km^2. The total area that may be affected by project activities is thus approximately 20 percent of the area in which bay dolphins are known to occur. Using this qualitative approach, the proportion of animals taken may then be reasonably considered to be small relative to the size of the population.

Separately, we believe that the potential effects of the specified activities represent a negligible impact for bay dolphins. Only a subset of the specified activities has the potential to affect bay dolphins. Buoy installation and impact pile driving, as well as the entire offshore portion of pipelaying and burial, would occur offshore and would not have the potential to affect the bay dolphin populations. Vibratory pile driving would occur entirely within Tampa Bay, as would a portion of inshore pipelaying and burial, and could impact the bay populations. Vibratory pile driving would occur for only 8 days (at two piles per day), meaning that any harassment experienced by bay dolphins from this activity would be of very short duration. In addition, Tampa Bay is significantly industrialized and urbanized and is heavily used by recreational boaters. Bottlenose dolphins occurring in Tampa Bay are somewhat acclimated to disturbance and would not be expected to experience significant disruption to behavioral patterns on the basis of short-term and low intensity disturbance, such as is expected for this project. The specified activities would not take place in areas known to be of special significance for feeding or breeding.

In summary, we believe that potential impacts to bay dolphins represent a negligible impact for the following reasons: (1) Only a subset of project activities have the potential to affect bay dolphins; (2) any takes would be of low intensity (resulting from exposure to low levels of non-pulsed sound over a limited duration) and likely would not result in significant alteration of dolphin behavior in the heavily urbanized/industrialized area where the activity would occur; and (3) any takes are likely to represent repeated takes of individuals using the area where the activity is occurring, rather than each take being of a new individual. Finally, following the initial year of construction, all operations would occur offshore, and there would be no potential for incidental take of bay dolphins.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, we find that construction and operation of Port Dolphin will result in the incidental take of small numbers of marine mammals, by Level B harassment only, and that the total taking from Port Dolphin's specified activities will have a negligible impact on the affected species or stocks.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action.

Endangered Species Act (ESA)

On August 4, 2009, NMFS concluded consultation with MARAD and USCG under section 7 of the ESA on the proposed construction and operation of the Port Dolphin LNG facility. The result of that consultation was NMFS' concurrence with Port Dolphin's determination that the proposed activities may affect, but are not likely to adversely affect, listed species under NMFS' jurisdiction. We are not authorizing incidental take of any ESA-listed marine mammal species. No listed species will be impacted by the specified activities.

National Environmental Policy Act (NEPA)

The USCG and the MARAD initiated the public scoping process in July 2007, with the publication of a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) in the **Federal Register.** The NOI included information on public meetings and informational open houses; requested public comments on the scope of the EIS; and provided information on how the public could submit comments. A Notice of Availability for the Draft EIS was published in the **Federal Register** in April 2008. Subsequently, a final EIS was published in July 2009. MarAd issued a Record of Decision (ROD) approving, with conditions, the Port Dolphin Energy Deepwater Port License application on October 26, 2009.

Because NMFS was a cooperating agency in the development of the Port Dolphin EIS, NMFS has adopted the EIS and issued its own ROD, signed on December 4, 2012, for issuance of authorizations pursuant to section 101(a)(5)(A) of the MMPA for the activities proposed by Port Dolphin.

Classification

The Office of Management and Budget (OMB) has determined that this rule is not significant for purposes of Executive Order 12866.

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that this rule would not have a significant economic impact on a substantial number of small entities. Port Dolphin is owned by the Norway-based shipping company Höegh LNG AS, which is itself held by Leif Höegh & Co, a global shipping company. Therefore, it is not a small governmental jurisdiction, small organization, or small business, as defined by the RFA. Port Dolphin Energy LLC is the only entity that is subject to the requirements in the regulations. Because this rule impacts only the activities of Port Dolphin, which is not considered to be a small entity within SBA's definition, the Chief Counsel for Regulation certified that this rule will not have a significant economic impact on a substantial number of small entities. No comments were received on this certification. As a result, a regulatory flexibility analysis is not required and none has been prepared.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number. This rule contains collection-of-information requirements subject to the provisions of the PRA. These requirements have been approved by OMB under control number 0648–0151 and include applications for regulations, subsequent LOAs, and reports.

List of Subjects in 50 CFR Part 217

Exports, Fish, Imports, Indians, Labeling, Marine mammals, Penalties, Reporting and recordkeeping requirements, Seafood, Transportation.

Dated: April 2, 2013.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR part 217 is amended as follows:

PART 217—REGULATIONS GOVERNING THE TAKE OF MARINE MAMMALS INCIDENTAL TO SPECIFIED ACTIVITIES

■ 1. The authority citation for part 217 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

■ 2. Subpart P is added to part 217 to read as follows:

Subpart P—Taking Marine Mammals Incidental to Construction and Operation of a Liquefied Natural Gas Deepwater Port in the Gulf of Mexico

Sec.
217.151 Specified activity and specified geographical region.
217.152 Effective dates.
217.153 Permissible methods of taking.
217.154 Prohibitions.
217.155 Mitigation.
217.156 Requirements for monitoring and reporting.
217.157 Letters of Authorization.
217.158 Renewals and Modifications of Letters of Authorization.

Subpart P—Taking Marine Mammals Incidental to Construction and Operation of a Liquefied Natural Gas Deepwater Port in the Gulf of Mexico

§ 217.151 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to Port Dolphin Energy LLC (Port Dolphin) and those persons it authorizes to conduct activities on its behalf for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occur incidental to construction and operation of the Port Dolphin Deepwater Port (Port).

(b) The taking of marine mammals by Port Dolphin may be authorized in a Letter of Authorization (LOA) only if it occurs in the vicinity of the Port Dolphin Deepwater Port in the eastern Gulf of Mexico or along the associated pipeline route.

§ 217.152 Effective dates.

Regulations in this subpart are effective from June 1, 2013, through May 31, 2018.

§ 217.153 Permissible methods of taking.

(a) Under LOAs issued pursuant to §§ 216.106 and 217.157 of this chapter, the Holder of the LOA (hereinafter ''Port Dolphin'') may incidentally, but not intentionally, take marine mammals within the area described in § 217.151(b) of this chapter, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

(b) The incidental take of marine mammals under the activities identified in § 217.151(a) of this chapter is limited to the following species and is limited to Level B Harassment:

(1) Bottlenose dolphin (*Tursiops truncatus*)—3,388 (860 the first year and an average of 632 annually thereafter)

(2) Atlantic spotted dolphin (*Stenella frontalis*)—1,274 (290 the first year and an average of 246 annually thereafter)

§ 217.154 Prohibitions.

Notwithstanding takings contemplated in § 217.151 of this chapter and authorized by a LOA issued under §§ 216.106 and 217.157 of this chapter, no person in connection with the activities described in § 217.151 of this chapter may:

(a) Take any marine mammal not specified in § 217.153(b) of this chapter;

(b) Take any marine mammal specified in § 217.153(b) of this chapter other than by incidental, unintentional Level B Harassment;

(c) Take a marine mammal specified in § 217.153(b) of this chapter if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under §§ 216.106 and 217.157 of this chapter.

§ 217.155 Mitigation.

(a) When conducting the activities identified in § 217.151(a) of this chapter, the mitigation measures contained in any LOA issued under §§ 216.106 and 217.157 of this chapter must be implemented. These mitigation measures include but are not limited to:

(1) General Conditions:

(i) Briefings shall be conducted between the Port Dolphin project construction supervisors and the crew, protected species observer(s) (PSO), and acoustic monitoring team prior to the start of all construction activity, and when new personnel join the work, to explain responsibilities, communication procedures, protected species monitoring protocol, and operational procedures.

(ii) Port Dolphin shall comply with all applicable equipment sound standards and ensure that all construction equipment has sound control devices no less effective than those provided on the original equipment. Vessel crew and contractors shall minimize the production of underwater sound to the extent possible. Equipment and/or procedures used may include the use of enclosures and mufflers on equipment, minimizing the use of thrusters, and turning off engines and equipment when not in use.

(iii) All vessels associated with Port Dolphin construction and operations shall comply with NMFS Vessel Strike Avoidance Measures and Reporting for Mariners and applicable regulations. All vessels associated with Port Dolphin construction and operations shall remain 500 yd (457 m) away from North Atlantic right whales (*Eubalaena glacialis*) and 100 yd (91 m) away from all other marine mammals, except in cases where small marine mammals (i.e., delphinids) voluntarily approach within 100 yd or unless constrained by human safety concerns or navigational constraints.

(2) Shutdown and Monitoring:

(i) Shutdown zone: For all stationary activities, shutdown zones shall be established. These zones shall include all areas where underwater sound pressure levels (SPLs) are anticipated to equal or exceed 180 dB re: 1 μPa rms, as determined by modeled scenarios approved by NMFS for each specific activity. The actual size of these zones shall be empirically determined and reported by Port Dolphin. For all non-stationary activities (e.g., pipeline burial, shuttle regasification vessel (SRV) maneuvering), Port Dolphin shall adhere to Vessel Strike Avoidance Measures described in § 217.155(a)(1)(iii) of this chapter, but shall not otherwise be required to establish shutdown zones.

(ii) Disturbance zone: For all construction activities, disturbance

zones shall be established. For impact pile driving, these zones shall include all areas where underwater SPLs are anticipated to equal or exceed 160 dB re: 1 μPa rms. For all other activities these zones shall include all areas where underwater SPLs are anticipated to equal or exceed 120 dB re: 1 μPa rms. These zones shall be established on the basis of modeled scenarios approved by NMFS for each specific activity. The actual size of disturbance zones shall be empirically determined and reported by Port Dolphin, and on-site PSOs shall be aware of the size of these zones. However, because of the large size of these zones, monitoring of the zone is required only to maximum line-of-sight distance from established monitoring locations.

(iii) Visual monitoring shall occur for all construction activities. The following measures shall apply:

(A) Zones shall be monitored from the appropriate vessel or work platform, or other suitable vantage point. Port Dolphin shall at all times employ, at minimum, two PSOs in association with each concurrent specified construction activity.

(B) Shutdown zones shall be monitored for the presence of marine mammals before, during, and after construction activity. For all activities, the shutdown zone shall be monitored for 30 minutes prior to initiating the start of activity and for 30 minutes following the completion of activity. If marine mammals are present within the shutdown zone prior to initiating activity, the start shall be delayed until the animals leave the shutdown zone of their own volition or until 15 minutes has elapsed without observing the animal. If a marine mammal is observed within or approaching the shutdown zone, activity shall be halted as soon as it is safe to do so, until the animal is observed exiting the shutdown zone or 15 minutes has elapsed. If a marine mammal is observed within the disturbance zone, a take shall be recorded and behaviors documented.

(C) PSOs shall be on watch at all times during daylight hours when in-water operations are being conducted, unless conditions (e.g., fog, rain, darkness) make observations impossible. The lead PSO on duty shall make this determination. If conditions deteriorate during daylight hours such that the sea surface observations are halted, visual observations must resume as soon as conditions permit. While activities will be permitted to continue during low-visibility conditions, they must have been initiated following proper clearance of the shutdown zone under acceptable observation conditions and must be restarted, if halted for any reason, using the appropriate shutdown zone clearance procedures as described in § 217.155(a)(2)(iii)(B) of this chapter.

(3) Pile driving:

(i) A minimum shutdown zone of 250 m radius shall be established around all impact pile driving activity.

(ii) Contractors shall reduce the power of impact hammers to minimum energy levels required to drive a pile.

(iii) Port Dolphin shall use a sound attenuation measure for impact driving of pilings. Prior to beginning construction, Port Dolphin must provide information to NMFS about the device to be used, including technical specifications. NMFS must approve use of the device before construction may begin. If a bubble curtain or similar measure is used, it shall distribute small air bubbles around 100 percent of the piling perimeter for the full depth of the water column. Any other attenuation measure (e.g., temporary sound attenuation pile) must provide 100 percent coverage in the water column for the full depth of the pile. Prior to any impact pile driving, a performance test of the sound attenuation device must be conducted in accordance with a NMFS-approved acoustic monitoring plan. If a bubble curtain or similar measure is utilized, the performance test shall confirm the calculated pressures and flow rates at each manifold ring.

(iv) Ramp-up:

(A) A ramp-up technique shall be used at the beginning of each day's in-water pile driving activities and if pile driving resumes after it has ceased for more than 1 hour.

(B) If a vibratory driver is used, contractors shall be required to initiate sound from vibratory hammers for 15 seconds at reduced energy followed by a 1-minute waiting period. The procedure shall be repeated two additional times before full energy may be achieved.

(C) If a non-diesel impact hammer is used, contractors shall be required to provide an initial set of strikes from the impact hammer at reduced energy, followed by a 1-minute waiting period, then two subsequent sets.

(D) If a diesel impact hammer is used, contractors shall be required to turn on the sound attenuation device for 15 seconds prior to initiating pile driving.

(v) No impact pile driving shall occur when visibility in the shutdown zone is significantly limited, such as during heavy rain or fog.

(4) Additional mitigation measures:

(i) Use of lights during construction activities shall be limited to areas where work is actually occurring, and all other lights must be extinguished. Lights must be shielded such that they illuminate the deck and do not intentionally illuminate surrounding waters, to the extent possible.

(ii) Additional mitigation measures as contained in a LOA issued under §§ 216.106 and 217.157 of this chapter.

(b) [Reserved]

§ 217.156 Requirements for monitoring and reporting.

(a) Visual monitoring program:

(1) Port Dolphin shall employ, at minimum, two qualified PSOs during specified construction-related activities at each site where such activities are occurring. All PSOs must be selected in conformance with NMFS' minimum qualifications, as described in the preamble to this rule, and must receive training sponsored by Port Dolphin, with topics to include, at minimum, implementation of the monitoring protocol, identification of marine mammals, and reporting requirements. The PSOs shall be responsible for visually locating marine mammals in the shutdown and disturbance zones and, to the extent possible, identifying the species. PSOs shall record, at minimum, the following information:

(i) A count of all marine mammals observed by species, sex, and age class, when possible.

(ii) Their location within the shutdown or disturbance zone, and their reaction (if any) to construction activities, including direction of movement.

(iii) Activity that is occurring at the time of observation, including time that activity begins and ends, any acoustic or visual disturbance, and time of the observation.

(iv) Environmental conditions, including wind speed, wind direction, visibility, and temperature.

(2) Port Dolphin shall sponsor a training course to designated crew members assigned to vessels associated with construction activities or support of operations who will have responsibilities for watching for marine mammals. This course shall cover topics including, but not limited to, descriptions of the marine mammals found in the area, mitigation and monitoring requirements contained in a LOA, sighting log requirements, provisions of NMFS Vessel Strike Avoidance Measures and Reporting for Mariners, and procedures for reporting injured or dead marine mammals.

(3) Monitoring shall be conducted using appropriate binoculars, such as 8x50 marine binoculars. When possible, digital video or still cameras shall also be used to document the behavior and response of marine mammals to

construction activities or other disturbances.

(4) Each PSO shall have two-way communication capability for contact with other PSOs or work crews. PSOs shall implement shut-down or delay procedures when applicable by calling for the shut-down to the equipment/vessel operator.

(5) A GPS unit and/or appropriate range finding device shall be used for determining the observation location and distance to marine mammals, vessels, and construction equipment.

(b) Acoustic monitoring program:

(1) Acoustic monitoring must be conducted in accordance with the NMFS-approved acoustic monitoring plan.

(2) Port Dolphin shall provide NMFS with empirically measured source level data for designated sources of sound associated with Port construction and operation activities and shall verify distances to relevant sound thresholds. Measurements shall be carefully coordinated with sound-producing activities.

(3) [Reserved]

(c) Reporting—Port Dolphin must implement the following reporting requirements:

(1) A report of data collected during monitoring shall be submitted to NMFS following conclusion of construction activities. Subsequent reports concerning Port operations shall be submitted annually. The reports shall include:

(i) All data required to be collected during monitoring, as described under § 217.156(a) of this chapter, including observation dates, times, and conditions;

(ii) Correlations of observed behavior with activity type and received levels of sound, to the extent possible; and

(iii) Estimations of total incidental take of marine mammals, extrapolated from observed incidental take.

(2) Port Dolphin shall also submit a report(s) concerning the results of all acoustic monitoring. Acoustic monitoring reports shall include information as described in a NMFS-approved acoustic monitoring plan.

(3) Reporting injured or dead marine mammals:

(i) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by a LOA (if issued), such as an injury (Level A harassment), serious injury, or mortality, Port Dolphin shall immediately cease the specified activities and report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Southeast Regional Stranding Coordinator, NMFS. The report must include the following information:

(A) Time and date of the incident;

(B) Description of the incident;

(C) Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);

(D) Description of all marine mammal observations in the 24 hours preceding the incident;

(E) Species identification or description of the animal(s) involved;

(F) Fate of the animal(s); and

(G) Photographs or video footage of the animal(s).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with Port Dolphin to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Port Dolphin may not resume their activities until notified by NMFS.

(ii) In the event that Port Dolphin discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (e.g., in less than a moderate state of decomposition), Port Dolphin shall immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Southeast Regional Stranding Coordinator, NMFS. The report must include the same information identified in § 217.156(b)(3)(i) of this chapter. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with Port Dolphin to determine whether additional mitigation measures or modifications to the activities are appropriate.

(iii) In the event that Port Dolphin discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the LOA (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Port Dolphin shall report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Southeast Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. Port Dolphin shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS.

(4) *Annual reports.* (i) A report summarizing all marine mammal monitoring and construction activities shall be submitted to NMFS, Office of Protected Resources, and NMFS, Southeast Regional Office (specific contact information to be provided in LOA) following the conclusion of construction activities. Thereafter, Port Dolphin shall submit annual reports summarizing operations activities.

(ii) The annual reports shall include data collected for each marine mammal species observed in the project area. Description of marine mammal behavior, overall numbers of individuals observed, frequency of observation, and any behavioral changes and the context of the changes relative to activities shall also be included in the reports. Additional information that shall be recorded during activities and contained in the reports include: date and time of marine mammal detections, weather conditions, species identification, approximate distance from the source, and activity at the construction site when a marine mammal is sighted. Port Dolphin shall extrapolate observed incidences of take to provide an estimate of actual incidences of take.

(5) *Five-year comprehensive report.* (i) Port Dolphin shall submit a draft comprehensive final report to NMFS, Office of Protected Resources, and NMFS, Southeast Regional Office (specific contact information to be provided in LOA) 180 days prior to the expiration of the regulations. This comprehensive technical report shall provide full documentation of methods, results, and interpretation of all monitoring during the first 4.5 years of the activities conducted under the regulations in this subpart.

(ii) Port Dolphin shall submit a revised final comprehensive technical report, including all monitoring results during the entire period of the LOAs, 90 days after the end of the period of effectiveness of the regulations to NMFS, Office of Protected Resources, and NMFS, Southeast Regional Office (specific contact information to be provided in LOA).

§ 217.157 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, Port Dolphin must apply for and obtain a LOA.

(b) A LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) If an LOA expires prior to the expiration date of these regulations, Port Dolphin must apply for and obtain a renewal of the LOA.

(d) In the event of projected changes to the activity or to mitigation and

monitoring measures required by an LOA, Port Dolphin must apply for and obtain a modification of the LOA as described in § 217.158 of this chapter.

(e) The LOA shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.*, mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of a LOA shall be published in the **Federal Register** within 30 days of a determination.

§ 217.158 Renewals and modifications of Letters of Authorization.

(a) A LOA issued under §§ 216.106 and 217.157 of this chapter for the activity identified in § 217.151(a) of this chapter shall be renewed or modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision in § 217.158(c)(1) of this chapter).

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in § 217.158(c)(1) of this chapter) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) A LOA issued under §§ 216.106 and 217.157 of this chapter for the activity identified in § 217.151(a) of this chapter may be modified by NMFS under the following circumstances:

(1) Adaptive Management—NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with Port Dolphin regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA:

(A) Results from Port Dolphin's monitoring from the previous year(s).

(B) Results from other marine mammal and/or sound research or studies.

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the **Federal Register** and solicit public comment.

(2) Emergencies—If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 217.153(b) of this chapter, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the **Federal Register** within 30 days of the action.

[FR Doc. 2013–08124 Filed 4–5–13; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 78, No. 67
Monday, April 8, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 950

RIN 3206–AM68

Solicitation of Federal Civilian and Uniformed Service Personnel for Contributions to Private Voluntary Organizations

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The United States Office of Personnel Management (OPM) is issuing a proposed rule to amend the Combined Federal Campaign (CFC) regulations in order to strengthen the integrity, streamline the operations and increase the effectiveness of the program to ensure its continued growth and success.

DATES: OPM must receive comments on or before June 7, 2013.

ADDRESSES: Send written comments to Keith Willingham, Director, Combined Federal Campaign, U.S. Office of Personnel Management, Room 6484A, 1900 E Street NW., Washington, DC; or email *cfc@opm.gov,* include ''RIN 3206–AM68'' in the subject line of the message, or FAX to (202) 606–5056 Attn: Keith Willingham. You may also submit comments using the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Mary Capule at *mary.capule@opm.gov* or (202) 606–2564.

SUPPLEMENTARY INFORMATION: This proposed rule would replace the current regulations for the CFC. OPM proposes these new regulations to govern the solicitation of Federal civilian and uniformed services personnel at the workplace. These proposed regulations are issued under the authority delegated to OPM by Executive Order 12353 (March 23, 1982), 47 FR 12785 (Mar. 25, 1982), as amended by Executive Order 12404 (February 10, 1983), 48 FR 6685 (Feb. 15, 1983).

In 2011, the CFC celebrated its 50th anniversary. In connection with this landmark anniversary, OPM announced the formation of the CFC–50 Commission. The Commission, formed under the Federal Advisory Committee Act, was asked to study ways to streamline and improve the program; improve accountability, increase transparency and accessibility and make it more affordable.

The Commission delivered its report to the OPM Director on July 20, 2012. The report contained 24 recommendations for improvement in the following areas: donor participation, CFC infrastructure, and standards of accountability and transparency.

OPM has reviewed these recommendations. This proposed rule reflects changes that OPM has concluded will improve the CFC, based on its experience administering the program and its considered judgment.

(1) *Changing the Campaign Solicitation Period.* Under current regulations, the CFC campaign solicitation period runs from September 1 to December 15. OPM proposes to change its regulation at § 950.102 to shift the campaign solicitation period by one month, so that it would begin on October 1 and end on January 15. This will allow the many employees who take leave during the month of December to contribute through the campaign when they return in the month of January. It also enables employees to consider the impact of future pay and other benefits (which often take effect the first full pay period in January) before making donations.

(2) *Immediate eligibility.* Under current regulations, new employees may not begin participating in the CFC until the next scheduled campaign solicitation period begins. OPM proposes to amend its regulation at § 950.102 to allow new employees to make CFC pledges immediately upon entering Federal service. Under OPM's proposal, new employees would be provided information on the CFC at orientation and be able to make pledges within 30 days of being hired if hired outside of the solicitation period. This will enable those employees who wish to make an immediate contribution to do so.

(3) *Disaster Relief Program.* Under current regulations, the OPM Director is authorized to allow special solicitations to respond to disasters. There is no standing mechanism in place, but rather each disaster requires a new authorization from the Director for a special solicitation period. OPM proposes to create a permanent structure to streamline and facilitate solicitations tied to disaster relief. Accordingly, OPM proposes to amend its regulations at § 950.102 to provide for the creation of a Disaster Relief Program that would be available to donors within hours after a disaster.

(4) *Local Governance Structure.* Currently, the CFC is managed locally through Local Federal Coordinating Committees (LFCC). The number of LFCC representatives, the level of engagement, and knowledge of CFC rules and regulations varies greatly among the 184 campaign regions in the U.S. and overseas. In some areas, campaigns have difficulty identifying Federal employees who can dedicate the time to fulfill the LFCC's oversight responsibilities, including the selection of a Principal Combined fund Organization (PCFO), review and approval of reimbursable campaign expenses, review of local charity applications, and oversight of the PCFO's CFC functions. OPM is proposing to modify its regulations at § 950.103 to change the LFCC to a Regional Coordinating Committee (RCC) structure. Under this proposed change, the Director would maintain sole authority with regard to any revisions to the established geographical regions, establish limits for the RCC Chair, set requirement for a Vice Chair and establish new requirements for Agency head to appoint employees to assist with the campaign. At a minimum, the RCCs will be comprised of representatives of Federal inter-agency organizations, such as Federal Executive Boards and Federal Executive Associations, or personnel assigned to the military installation and/or Federal agency identified as the lead agency in that region. The responsibilities of the RCC will be similar to those of the LFCC with the exception of the selection and oversight of a PCFO. OPM believes the reduction in responsibilities, in addition to larger campaign regions from which members will be selected, will attract more individuals to serve in this important leadership role.

(5) *Electronic Donations.* OPM proposes to modify § 950.103 to eliminate the use of cash, check and money order contributions. Instead, all donations will be required to be made through electronic means. Electronic transfers are now widely available and by moving to an exclusively electronic donation system, we will increase the efficiency of administration of the CFC program, eliminate burdensome paperwork, and save resources.

(6) *Training and Oversight.* OPM proposes to modify § 950.104 to provide for additional training and oversight of the RCC. The training will be conducted by OPM staff and will focus on oversight responsibilities, charity eligibility requirements, and how to select a marketing organization and review/approve its reimbursable marketing expenses.

(7) *Elimination of Paper Processes.* OPM is also proposing to modify § 950.104 to eliminate paper processes within the CFC as much as possible. Specifically, OPM proposes changes in this section to eliminate printing and distributing the Charity List. Rather, this list will be made available exclusively through electronic means. This change will reduce overhead costs and increase efficiency in the administration of the CFC program.

(8) *Streamlining Campaign Administration.* Under current regulations, many campaign administration functions are performed by a number of Principal Combined Fund Organizations (PCFOs) supporting local campaigns throughout the country. We believe that a centralized approach will benefit from economies of scale and ultimately reduce overhead costs. Accordingly, OPM proposes to modify its regulations at § 950.105 to eliminate the PCFOs. In their place, we propose to consolidate responsibilities for back office functions and establish one or more Central Campaign Administrators (CCA). The CCA would either perform these functions itself or would set up regional receipt and disbursement centers. We further propose that the RCC may engage a marketing firm to continue outreach to Federal, Postal and military personnel, functions currently coordinated by the PCFOs.

(9) *Administrative Costs.* Currently, the overhead administrative costs of much of the CFC program are paid for out of donor contributions to the campaign. We believe that more transparency with respect to administrative overhead would be beneficial to the program, to the donors, and to the charitable organization that receive donations through the program. Accordingly, OPM proposes that the cost of the campaign previously outlined in § 950.106 instead be recovered through application fees paid by the charitable organizations that apply for participation in the CFC. This section also establishes how the fees will be collected and the permissible uses of the fees.

(10) *Streamlined Application Process.* OPM believes there are efficiencies to be gained in its charity application process. We are proposing to modify the regulations at § 950.201 to reduce the burden on charities that have previously been admitted to participate in the program. Thus, these charities would be required to produce a more limited specified set of documents, via a reduced application form, to be admitted for the subsequent two years. We think this approach will afford us with sufficient information to evaluate the charity's continuing eligibility while reducing unnecessary administrative burdens on the charity.

(11) *Audit of Small Charities.* OPM is proposing to modify its regulations at § 950.203 to waive the audit requirement for organizations reporting less than $100,000 in annual revenue to the IRS. In addition, we propose that an organization with annual revenue of at least $100,000 but less than $250,000 not be required to undergo an audit, but have their statements reviewed by an independent certified public accounting firm. This would remove a disproportionate burden on small charities.

(12) *Oversight of Federations.* OPM proposes to strengthen its regulations regarding federations to increase accountability and transparency. OPM proposes changes to § 950.301 to specify that federations provide a copy of each member organization's application, require dates upon which disbursements must be made to members, adds additional reporting requirements, and prohibit deductions of dues/fees from the disbursement of CFC contributions.

(13) *Payroll Deduction Disbursements.* OPM has decided to standardize and improve how payroll offices provide donor pledge reports to campaigns. OPM proposes changes to former § 950.901 (§ 950.801 in these proposed regulations) to require payroll offices to either distribute funds to the charities directly or, if funds are transmitted to the CCA, provide more detailed reports. Currently, Federal payroll office disbursement reports vary in format and level of detail, which adds to the administrative costs of the campaign administrators responsible for ensuring the accuracy of disbursements to designated charities.

These proposed changes will introduce efficiencies and cost savings into the CFC by leveraging technology that was not widely available just a few years ago. They will make the CFC more efficient, more transparent, more accountable and more relevant to Federal, Postal and military service personnel who want to make the biggest impact with their donations.

While these proposals would make significant changes in the operation of the CFC, OPM remains committed to ensuring the broad participation of a multitude of charities in the CFC, and to preserving the local character, sense of community, and employee involvement that has been a hallmark of the CFC. We welcome comments on how to best maintain these important attributes as we take steps to improve the CFC for the future.

Section-by-Section Analysis

Section 950.101 Definitions. Definitions were reviewed and updated to conform to the proposed regulatory changes. Accordingly, we propose to eliminate terms no longer applicable (Campaign Period, Designated Funds, Domestic Area, Local Federal Coordinating Committee (LFCC), Overseas Area, Principal Combined Fund Organization (PCFO), Undesignated Funds), add new terms (Campaign Expenses, Central Campaign Administrator (CCA), Charity Application Fees, Regional Coordinating Committee (RCC)), and revise definitions of some of the terms that remain in place (Administrative Expenses, Charity List, Organization or Charitable Organization, Solicitation).

Section 950.102 Scope of the Combined Federal Campaign. Adjusts solicitation dates to October 1–January 15 from September 1–December 15. This shift addresses concerns about having the campaign end in December, while maintaining the current length of the solicitation period, as well as eliminating the requirement for the LFCC to establish campaign dates. It also provides the opportunity for new employees to pledge within 30 days if hired outside the solicitation period, and establishes standard guidance for Disaster Relief support.

Section 950.103 Establishing Regional Coordinating Committees. Changes Local Federal Coordinating Committee (LFCC) to Regional Coordinating Committee (RCC) to better reflect the proposed responsibilities of this committee of Federal personnel. Requires appointment of RCC Chair and Vice Chair, limits Chair term to no more than 3 consecutive years. Establishes new requirement for Agency heads to

appoint employees in support of the campaign. Eliminates use of cash, check and money order, limits pledging to electronic means using only payroll deduction or credit cards, and also eliminates restriction on soliciting non-Federal personnel. Removes campaign boundaries with regard to donors, as universal giving is supported in a completely electronic process.

Section 950.104 Regional Coordinating Committee responsibilities. Provides for a transition from a large number of ''local'' campaigns to a smaller number of ''regions,'' requiring a reduced number of Federal personnel for oversight purposes. Requires committee members to gain a complete understanding of regulations and procedures by attending specific training and achieving certification in RCC operations. Eliminates the local application review responsibility, and tasks the RCC to assist OPM with application review as assigned. Reassigns the responsibility for training the campaign personnel from the PCFO to the RCC. Establishes the ability for RCC to hire campaign marketing support. Eliminates the need for Loaned Executives in a fully electronic pledging environment.

Section 950.105 Federal Agency Head responsibilities. Outlines specific responsibilities of Agency Heads to include identification of employees in support of the campaign. Previously defined duties are also indicated to include providing support to the campaign, becoming familiar with the regulations, and assuring the campaign is conducted in accordance with those regulations.

Section 950.106 Central Campaign Administrator (CCA) Establishes CCA requirements, roles and functions and eliminates requirement for PCFO and all references thereto. Provides guidance for circumstances where no qualified CCA can be retained.

Section 950.107 Campaign Expense recovery. Shifts the expense of the campaign from the donor to the charities via a charity application fee and changes PCFO expenses to campaign expenses (CCA and marketing costs).

Section 950.108 Preventing Coercive activity. No changes.

Section 950.109 Avoidance of Conflict of Interest. Removed references to LFCC and PCFO, added reference to RCC.

Section 950.110 Prohibited discrimination. Updated to meet current legal standards.

Section 950.201 Charity eligibility. Combines all current charity eligibility guidance into one subpart, eliminating separate sections for national/international and local. Eliminates annual application requirement and instead establishes a streamlined verification process for two ''renewal'' years after the year in which the initial full application is approved.

Section 950.202 Charity eligibility requirements. Establishes in one section requirements for national/international and local charities. Codifies several OPM guidance memoranda into the regulation (2006–21 and 2008–08). Removes requirement to submit IRS verification letter if the organization can be verified in the IRS Business Master File (BMF). Outlines verification requirements for local affiliates, churches and Family Support and Youth Activities/Family Support and Youth Programs FSYA/FSYPs.

Section 950.203 Public accountability standards. Specifies 'calendar year' where previous reference was unclear and updated sample dates. Specifies requirement for US or International Accounting Standards, and modifies transition levels for audit requirements. Removes requirement for Attachment A of IRS Form 990, and removes definition of 'pro forma 990' so requirements can be modified easily as the IRS updates the form.

Section 950.204 Eligibility decisions and appeals. All local eligibility requirements merged from this section into section 950.203. New section 950.204 establishes process for decisions and appeals in lieu of certified or registered mail. Codifies appeal information in OPM guidance memorandum 2012–03.

Section 950.301 Federation eligibility. Establishes specific requirements, combining national/international and local federation eligibility requirements into one section. Requires federations to submit a copy of each member organization's application as outlined in the Charity Eligibility section. Specifies 'calendar year' where previous reference was unclear.

Section 950.302 Responsibilities of federations Combines national/international and local federation responsibilities into one section. Establishes requirement for federations to disburse funds to members on a quarterly basis, and prohibits federations from deducting fees or charges from disbursements made to member organizations. Requires that CFC funds are identified as such when payments that include non-CFC funds are made to member organizations.

Section 950.401 Campaign and publicity information. Removes references to PCFO, changes references from LFCC to RCC. Eliminates use of paper Charity List and pledge form, as all donations must be entered electronically. Removes the undesignated gift option. Removes guidance for confidential gifts as gifts will be made electronically. Adds requirement and references for credit card usage. Adds the organization's Web site address as a standardized item in each charity list entry, and revises the 25 word statement to a 256 character statement.

Section 950.402 Pledge form Removes use of paper pledge forms, and all references thereto. Also removes undesignated option, as well as all references with regard to undesignated pledging.

Section 950.501 Release of contributor information. Eliminates references to PCFO, and replaces those references with CCA. Requires federations to provide donor information to its member organizations in a specific time frame. Codifies CFC Memo 2003–2.

Section 950.502 Solicitation methods. Prohibits fund raising at events and activities, eliminates references to specific CFC events and activities, and requires that Agencies obtain approval from ethics officials to approve all events and activities.

Section 950.503 Sanctions and penalties. Removes all references to PCFO and LFCC, and added references to CCA where appropriate.

Section 950.504 Records retention. Changed PCFO reference to CCA. Updated years in sample dates.

Section 950.505 Sanctions compliance certification. Corrects ''unaffiliated'' to ''independent.'' Corrects official name of OPM's Office of CFC (OCFC).

Section 950.601 Campaign schedule. Eliminates references to National/International applicants since all applications and eligibility process requirements apply to all charities. Eliminates references to PCFO and LFCC regarding specifics of local application review process which has been eliminated.

Section 950.701 Payroll allotment. Eliminates references to paper pledge forms, which have been discontinued. Changes dates of payroll deductions to coincide with new extended solicitation period. Changes minimum pledge to $1 per pay period per designated charity.

Section 950.801 Accounting and Distribution. Outlines requirement for remittance and transmission of funds by payroll offices to CCA or charities. Changes references from PCFO to CCA, outlines requirements for distribution of credit card funds.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would reduce reporting and recordkeeping requirements for small organizations that wish to participate in the CFC.

Executive Order 13563 and Executive Order 12866

This proposed rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 13563 (January 18, 2011), 76 FR 3821 (Jan. 21, 2011), and Executive Order 12866 (September 30, 1993), 58 FR 51735 (Oct. 4, 1993).

List of Subjects in 5 CFR Part 950

Administrative practice and procedure, Charitable contributions, Government employees, Military personnel, Nonprofit organizations, Reporting and recordkeeping requirements.

U.S. Office of Personnel Management.

John Berry,

Director.

Accordingly, the U.S. Office of Personnel Management is proposing to revise 5 CFR part 950 to read as follows:

PART 950—SOLICITATION OF FEDERAL CIVILIAN AND UNIFORMED SERVICE PERSONNEL FOR CONTRIBUTIONS TO PRIVATE VOLUNTARY ORGANIZATIONS

Subpart A—General Provisions

Sec.
950.101 Definitions.
950.102 Scope of the Combined Federal Campaign.
950.103 Establishing Regional Coordinating Committees.
950.104 Regional Coordinating Committee responsibilities.
950.105 Federal Agency Head responsibilities.
950.106 Central Campaign Administrator (CCA).
950.107 Campaign expense recovery.
950.108 Preventing coercive activity.
950.109 Avoidance of conflict of interest.
950.110 Prohibited discrimination.

Subpart B—Eligibility Provisions

950.201 Charity eligibility.
950.202 Charity eligibility requirements.
950.203 Public accountability standards.
950.204 Eligibility decisions and appeals.

Subpart C—Federations

950.301 Federation eligibility.
950.302 Responsibilities of federations.

Subpart D—Campaign Information

950.401 Campaign and publicity information.
950.402 Pledge form.

Subpart E—Miscellaneous Provisions

950.501 Release of contributor information.
950.502 Solicitation methods.
950.503 Sanctions and penalties.
950.504 Records retention.
950.505 Sanctions compliance certification.

Subpart F—CFC Timetable

950. 601 Campaign schedule.

Subpart G—Payroll Withholding

950.701 Payroll allotment.

Subpart H—Accounting and Distribution

950.801 Accounting and distribution.

Authority: E.O. 12353 (March 23, 1982), 47 FR 12785 (March 25, 1982), 3 CFR, 1982 Comp., p. 139; E.O. 12404 (February 10, 1983), 48 FR 6685 (February 15, 1983); Pub. L. 100–202, and Pub. L. 102–393 (5 U.S.C. 1101 Note).

Subpart A—General Provisions

§ 950.101 Definitions.

As used in this part:

Administrative Expenses means the overhead costs of the participating organization based on information from the Internal Revenue Service Form 990.

Campaign Expenses means the cost of the administration of the campaign by the Central Campaign Administrator and any regional marketing organizations.

Central Campaign Administrator means the organization(s) responsible for developing and maintaining the CFC Web site and charity application module, and to which OPM may assign responsibility for making distributions to charities.

Charity Application Fees means the charge to charities applying for listing in the CFC to pay the Campaign Expenses.

Charity List means the official list of charities approved by OPM for inclusion in the CFC.

Combined Federal Campaign or *Campaign* or *CFC* means the charitable fundraising program established and administered by the Director of the Office of Personnel Management (OPM) pursuant to Executive Order No. 12353, as amended by Executive Order No. 12404, and all subsidiary units of such program.

Director means the Director of the Office of Personnel Management or his/her designee.

Employee means any person employed by the Government of the United States or any branch, unit, or instrumentality thereof, including persons in the civil service, uniformed service, foreign service, and the postal service.

Family Support and Youth Activities (FSYA) means an organization on a domestic military base recognized by the Department of Defense as providing programs for military families on the base.

Family Support and Youth Programs (FSYP) means an organization on a non-domestic military base recognized by the Department of Defense as providing programs for military families on the base.

Federation or *Federated Group* means a group of voluntary charitable human health and welfare organizations created to supply common fundraising, administrative, and management services to its constituent members.

Independent Organization means a charitable organization that is not a member of a federation for the purposes of the Combined Federal Campaign.

International General Designation Option means an option available to donors under which his or her gift is distributed to all of the international organizations listed in the International Section of the Charity List in the same proportion as all of the international organizations received designations in the local CFC. This option will have the code IIIII.

International Organization means a charitable organization that provides services either exclusively or in a substantial preponderance to persons in areas outside of the United States.

Organization or *Charitable Organization* means a non-profit, philanthropic, human health and welfare organization.

Regional Coordinating Committee means the group of Federal officials designated by the Director to oversee the CFC in a region and to assist the Director with the charity application reviews.

Solicitation means any action requesting a monetary donation, either by payroll deduction or credit card, on behalf of charitable organizations.

§ 950.102 Scope of the Combined Federal Campaign.

(a) The CFC is the only authorized solicitation of employees in the Federal workplace on behalf of charitable organizations. A campaign may be conducted only during the period running from October 1 through January 15. It must be conducted at every Federal agency in accordance with the regulations in this part. No other monetary solicitation on behalf of charitable organizations may be conducted in the Federal workplace, except as follows:

(1) Federal agencies must provide information about the CFC to new employees at orientation. New employees may make pledges within 30 days of hiring if hired outside of the campaign period.

(2) The Director may grant permission for solicitations of Federal employees, outside the CFC, in support of victims in cases of emergencies and disasters. Emergencies and disasters are defined as any hurricane, tornado storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the world. Any special solicitations will be managed through a Disaster Relief Program developed by OPM.

(b) The regulations in this part do not apply to the collection of gifts-in-kind, such as food, clothing and toys, or to the solicitation of Federal employees outside of the Federal workplace as defined by the applicable Agency Head consistent with General Services Administration regulations and any other applicable laws or regulations.

(c) The Director may exercise general supervision over all operations of the CFC, and take all necessary steps to ensure the achievement of campaign objectives, including but not limited to the following:

(1) Any disputes relating to the interpretation or implementation of this part may be submitted to the Director for resolution. The decisions of the Director are final for administrative purposes.

(2) The Director may audit, investigate, and report on the administration of any campaign, the organization that administers the campaign, and any national, international and local federation, federation member or independent organization that participates in the campaign for compliance with these regulations. The Director may resolve any issues reported and assess sanctions or penalties, as warranted under § 950.503.

(d) Current Federal civilian and active duty military employees may be solicited for contributions using payroll deduction or by electronic means, including credit cards, as approved by the Director. Contractor personnel, credit union employees and other persons present on Federal premises, as well as retired Federal employees, may make single contributions to the CFC by electronic means, including credit cards, as approved by the Director.

(e) Heads of departments or agencies may establish policies and procedures applicable to solicitations conducted by organizations composed of civilian employees or members of the uniformed services among their own members for organizational support or for the benefit of welfare funds for their members. Such solicitations are not subject to these regulations, and therefore do not require permission of the Director.

§ 950.103 Establishing Regional Coordinating Committees.

(a) The Director, in his or her sole discretion, will establish, maintain, and, from time to time, revise an official list of campaign regions.

(b) For each campaign region, the Director will establish a Regional Coordinating Committee (RCC) for the purpose of governing the campaign for that region. The RCC shall consist of the following:

(1) A minimum of three members to be drawn from local Federal inter-agency organizations, such as Federal Executive Boards and Federal Executive Associations, or from personnel assigned to the military installation and/or agency identified as the lead agency in that region;

(2) Representation from local Federal agencies; and

(3) If approved by the Director, representatives of employee unions and other employee groups.

(c) The members of each RCC must select a Chair and a Vice Chair. The Chair and Vice Chair positions will be rotated among the RCC members. The term of the Chair and Vice Chair may not exceed three consecutive years. Any RCC Chair or Vice Chair is subject to removal by the Director, in his sole and unreviewable discretion.

(d) The RCC will ensure that, to the extent reasonably possible, every employee is given the opportunity to participate in the CFC.

§ 950.104 Regional Coordinating Committee responsibilities.

(a) The RCC is to serve as the central source of information regarding the CFC among Federal employees in their region. All members of the RCC must develop an understanding of campaign regulations and procedures.

(b) The responsibilities of the RCC members include, but are not limited to, the following:

(1) Attend required RCC training and obtain certification in RCC operations;

(2) Maintain minutes of RCC meetings and respond promptly to any request for information from the Director;

(3) Name a RCC Chair and Vice Chair and notify the Director when there is a change in either position;

(4) Assist in determining the eligibility of organizations that apply to participate in the campaign as required and assigned by OPM;

(5) Provide training to employees in the methods of non-coercive solicitation;

(6) Provide instructions to employees regarding the process for making donations and designating the charitable organizations to receive their donations.

(7) Take appropriate measures to protect potential donors from coercion to participate in the campaign.

(8) Bring any allegations of potential donor coercion to the attention of the employee's agency and provide a mechanism to review employee complaints of undue coercion in Federal fundraising. Federal agencies shall provide procedures and assign responsibility for the investigation of such complaints. The agency official responsible for conducting the campaign is responsible for informing employees of the proper channels for pursuing such complaints.

(9) Notify the Director of issues concerning the campaign that the RCC cannot resolve by applying these regulations. The RCC must abide by the Director's decisions on all matters concerning the campaign.

(10) Monitor the work of the marketing organization, ensuring compliance with these regulations, as well as performance as outlined in agreement between the RCC and the marketing organization.

(11) Review, approve and provide authorization to the Central Campaign Administrator for payments to the marketing organization in an efficient and effective manner as outlined in the agreement.

(c) The RCC may hire an organization to provide regional operation marketing support to their campaign, including developing marketing plans and materials, employee training, and campaign event and activity support.

§ 950.105 Federal Agency Head responsibilities.

(a) The agency head at each Federal installation within a campaign area should:

(1) Become familiar with all CFC regulations.

(2) Cooperate with the members of the RCC in organizing and conducting the campaign.

(3) Initiate official campaigns within their offices or installations and provide support for the campaign.

(4) Assure the campaign is conducted in accordance with these regulations.

(5) Appoint an employee to oversee the Agency campaign.

(6) Establish a network of employees in support of the Agency's campaign.

(b) Agency heads may not discontinue solicitation of Federal employees during the campaign solicitation period within their organization without the written approval of the Director.

§ 950.106 Central Campaign Administrator (CCA).

(a) OPM may contract with one or more organizations classified by the Internal Revenue Service as 501(c)(3) organizations, to perform the centralized fiscal and administrative functions of the CFC. One organization will be responsible for developing and maintaining a centralized Web site for the CFC that will include an online application function for charities applying to participate in the CFC and an online pledging function for Federal donor use. All organizations will be responsible for disbursing funds received from the Federal payroll offices or service providers. If OPM contracts with more than one organization, the disbursement responsibilities will be divided between them based on Federal Shared Service Centers and Federal payroll offices. For example, if OPM contracts with four organizations, one would handle all agencies that use National Finance Center as their Shared Service Center. Only non-CFC participating organizations may be selected as CCAs.

(b) In the event that there is no qualified CCA, no workplace solicitation of any Federal employee may be authorized and CFC payroll allotments would not be accepted or honored.

§ 950.107 Campaign expense recovery.

(a) The costs of the regional marketing approved by the RCC, training and traveling for the RCC, and CCA will be recovered through application fees paid by charitable organizations applying for participation in the CFC. The fee structure will be determined annually by the Director based on estimated costs of administering the campaign. This structure will be announced no later than October 31 of the year preceding the campaign. Any excess funds from applications fees over expenses will be rolled over to the following campaign and be considered when setting the rates. Marketing expenses will not exceed a percentage of receipts as determined by the Director. No expenses for food or entertainment may be reimbursed to the marketing firm. Only travel related food expenses may be reimbursed to the RCC in accordance with the Federal Travel Regulations.

(b) Charity application fees are due at the time of the filing of the application or the application deadline, whichever occurs last. A charity that has not paid the full application fee at that time may not participate in the CFC that campaign year.

(c) Charity application fees will not be refunded, even if the charity has withdrawn its application or fails to meet the public accountability standards or eligibility requirements for participation.

§ 950.108 Preventing coercive activity.

True voluntary giving is fundamental to Federal fundraising activities. Actions that do not allow free choices or create the appearance that employees do not have a free choice to give or not to give, or to publicize their gifts or to keep them confidential, are contrary to Federal fundraising policy. Activities contrary to the non-coercive intent of Federal fundraising policy are not permitted in campaigns. They include, but are not limited to:

(a) Solicitation of employees by their supervisor or by any individual in their supervisory chain of command. This does not prohibit the head of an agency to perform the usual activities associated with the campaign kick-off and to demonstrate his or her support of the CFC in employee newsletters or other routine communications with the Federal employees.

(b) Supervisory inquiries about whether an employee chose to participate or not to participate or the amount of an employee's donation. Supervisors may be given nothing more than summary information about the major units that they supervise.

(c) Setting of 100 percent participation goals.

(d) Establishing personal dollar goals and quotas.

(e) Developing and using lists of non-contributors.

(f) Providing and using contributor lists for purposes other than the routine collection and forwarding of contributions and allotments, and as allowed under § 950.501.

(g) Using as a factor in a supervisor's performance appraisal the results of the solicitation in the supervisor's unit or organization.

§ 950.109 Avoidance of conflict of interest.

Any Federal employee who serves on the RCC, or as a Federal agency fundraising program employee, shall not serve in any official capacity or participate in any decisions where, because of membership on the board or other affiliation with a charitable organization, there could be or appear to be a conflict of interest under any statute, regulation, Executive order, or applicable agency standards of conduct.

§ 950.110 Prohibited discrimination.

Discrimination for or against any individual or group on account of race, ethnicity, color, religion, sex (including pregnancy and gender identity), national origin, age, disability, sexual orientation, genetic information, or any other non-merit-based factor is prohibited in all aspects of the management and the execution of the CFC. Nothing herein denies eligibility to any organization, which is otherwise eligible under this part to participate in the CFC, merely because such organization is organized by, on behalf of, or to serve persons of a particular race, ethnicity, color, religion, sex, gender identity, national origin, age, disability, sexual orientation, or genetic background.

Subpart B—Eligibility Provisions

§ 950.201 Charity eligibility.

(a) The Director shall annually:

(1) Determine the timetable and other procedures regarding application for inclusion in the Charity List; and

(2) Determine which organizations among those that apply qualify to be included in the National/International, International and Local parts of the Charity List. In order to determine whether an organization may participate in the campaign, the Director may request evidence of corrective action regarding any prior violation of regulation or directive, sanction, or penalty, as appropriate. The Director retains the ultimate authority to decide whether the organization has demonstrated, to the Director's satisfaction, that the organization has taken appropriate corrective action. Failure to demonstrate satisfactory corrective action or to respond to the Director's request for information within 10 business days of the date of the request may result in a determination that the organization will not be included in the Charity List.

(b) The Charity List will include each organization's CFC code and other information as determined by OPM.

(c) A charity must submit the full application the initial year it applies to participate in the CFC. In lieu of a full application, a charity may submit a verification application for the two years immediately following its submission of a full application.

(1) A verification application consists of certification of all applicable statements required by §§ 950.202 and 950.203, and submission of an IRS Form 990 or pro forma IRS Form 990, as defined in § 950.203(a)(3).

(2) An organization that did not apply or was not approved for participation in the preceding campaign must submit a full application.

§ 950.202 Charity eligibility requirements.

(a) The requirements for an organization to be listed in the Charity List shall include the following:

(1) Certification that it provides or conducts real services, benefits, assistance, or program activities, in 15 or more different states or one or more foreign countries over the 3 calendar year period immediately preceding January 1 of the campaign application year. A schedule listing a detailed description of the services in each state (minimum 15) or foreign countries (minimum 1), including the year of service and documenting the location and date and year of each service, and the number of beneficiaries of each such service must be included with the CFC application. The schedule must make a clear showing of national or international presence. Broad descriptions of services and identical repetitive narratives will not be accepted in the sole discretion of OPM if they do not allow OPM to adequately determine that real services were provided or to accurately determine the individuals or entities who benefited. It must be clear in the documentation submitted that the organization provided at least one human health and welfare service in the calendar year prior to the year for which the organization is applying. Publications or other documents in lieu of a schedule detailing this information are not acceptable.

(i) Local charitable organizations are not required to have provided services or benefits in 15 states or a foreign country over the prior 3 years. The schedule for local organizations is only required to document services in their local area. Local organizations must also certify that the Organization Address submitted with the application is the primary location where the organization's services are rendered and/or its records are maintained.

(ii) This requirement cannot be met solely by the provision of services via telephone, unless the service is emergency in nature such as a suicide prevention hotline. The requirement is also not met solely by disseminating information and publications via the U.S. Postal Service or the Internet, unless it meets the criteria for web-based services as described in § 950.202(a)(1)(iii), or a combination thereof.

(iii) Real services or benefits for web-based service organizations may be considered if the organization provides service logs or other records indicating the geographic distribution of users in each state. The organization must demonstrate the scope of services received by users over the three-year period immediately preceding the start of the campaign year involved. Reports that reflect only the number of hits or visits to a Web site are not sufficient to establish the provision of real services. In addition, two of the three following types of information must be provided to demonstrate the provision of real services, benefits, assistance, or program activities:

(A) Evidence that recipients, including members of the general public, dues paying members or affiliate organizations, have registered for use of the Web site;

(B) Summary reports that document customer feedback, through service satisfaction or utilization surveys or other mechanisms; and

(C) Documented evidence that recipients of web-based services paid a fee for the service.

(iv) Providing listings of affiliated groups does not demonstrate provision of real services by the applicant. Location of residence of organization members or location of residence of visitors to a facility does not substantiate provision of services. Schedules that describe activities conducted by an entity other than the applicant, such as a chapter or a support group, must include information documenting the applicant's role in the delivery of the service. Details may include items such as whether the chapter is funded by the applicant or how the applicant assisted in the delivery of the service. Applications that fail to include a description of how the applicant itself provides service may result in a denial.

(v) Organizations that provide student scholarships or fellowships must indicate the state in which the recipient resides, not the state of the school or place of fellowship. Mere dissemination of information does not demonstrate acceptable provision of real services.

(vi) While it is not expected that an organization maintain an office in each state or foreign country, a clear showing must be made of the actual services, benefits, assistance or activities provided in each state or foreign country. Organizations that provide services in one location may only count the state in which the services are provided toward their eligibility to participate on the national charity list. However, an organization may have beneficiaries from several states and want service to those beneficiaries considered toward the 15-state requirement to participate on the national Charity List. If an organization can document that the services are subsidized or were provided free-of-charge, and list the value of those services to each of the beneficiaries, then the service to the beneficiary may be considered a service in the state of the beneficiary's residence, similar to a financial grant or scholarship. For example, a medical institution providing free housing to family members of the patient during the length of the patient's stay must list the location of the medical institution, the city/state of residence of each beneficiary, the dates of service, and the value of the housing provided to each beneficiary's family members.

(vii) An organization's role in providing information to the media, such as authorship of an article for a newspaper, magazine, or journal, or serving as an interviewee or reference for a television news program, or the authorship of a book, does not in itself constitute a real service for CFC purposes. Likewise, the production and/or distribution of information, such as a report based on research, surveys conducted by the applicant organization, or publication of a policy position paper, does not, in itself, constitute an eligible service. With regard to media-related activities, research, and reports, the applicant must describe the manner in which beneficiaries requested or used the document or information in order to establish the provision of a real services, benefit, assistance, or program activity.

(viii) De minimis services, benefits, assistance, or other program activities in any state or foreign country will not be accepted as a basis for qualification as a national or international organization. Factors that OPM will consider in determining whether an organization's services, benefits, assistance or other program activities are de minimis include, but are not limited to: nature and extent of the service, benefit, assistance or activity; frequency, continuity, and duration; value of financial assistance awarded to individuals or entities; impact on, or benefit to, beneficiaries; and number of beneficiaries.

(2) Certification that it is an organization recognized by the Internal Revenue Service as tax exempt under 26 U.S.C. 501(c)(3) to which contributions are deductible under 26 U.S.C. 170(c)(2). The CFC will verify that each applicant's name and Employer Identification Number appears in the IRS Business Master File (BMF). If the organization does not appear in the BMF, one of the following must accompany the application:

(i) An affirmation letter from the IRS, dated on or after January 1 of the campaign year to which the

organization is applying, that verifies the organization's current 501(c)(3) tax-exempt status.

(ii) A local affiliate of a national organization that is not separately incorporated must submit a certification from the Chief Executive Officer (CEO) or CEO equivalent of the national organization stating that it operates as a bonafide chapter or affiliate in good standing of the national organization and is covered by the national organization's 26 U.S.C. 501(c)(3) tax exemption. The letter must be signed and dated on or after October 1 of the calendar year preceding the campaign year for which the organization is applying.

(iii) For central organizations that are churches, the CFC will accept a copy of its most recently published listing (such as a church directory) of section 501(c)(3) organizations that are included in the group exemption held by the central organization. A subordinate may alternatively obtain a letter from the central organization affirming the subordinate's status as an organization exempt under section 501(c)(3) of the Internal Revenue Code that is included in the group exemption held by the central organization.

(iv) Family Support and Youth Activities (FSYA) located on military installations in the United States and Family Support and Youth Programs (FSYP) located on military installations overseas must provide a copy of certification by the commander of a military installation, as outlined in paragraphs (a)(3) and (4) of this section, to demonstrate tax-exempt status.

(3) Family support and youth activities or programs certified by the commander of a military installation as meeting the eligibility criteria contained in paragraphs (a)(3) and (4) of this section may appear on the list of local organizations and be supported from CFC funds. Family support and youth activities may participate in the CFC as a member of a federation at the discretion of the certifying commander.

(4) A family support and youth activity or program must:

(i) Be a nonprofit, tax-exempt organization that provides family service programs or youth activity programs to personnel in the Command and be a Non-Appropriated Fund Instrumentality that supports the installation MWR/FSYA/FSYP program. The activity must not receive a majority of its financial support from appropriated funds.

(ii) Have a high degree of integrity and responsibility in the conduct of their affairs. Contributions received must be used effectively for the announced purposes of the organization.

(iii) Be directed by the base Non-Appropriated Fund Council or an active voluntary board of directors which serves without compensation and holds regular meetings.

(iv) Conduct its fiscal operations in accordance with a detailed annual budget, prepared and approved at the beginning of the fiscal year. Any significant variations from the approved budget must have prior authorization from the Non-Appropriated Fund Council or the directors. The family support and youth activities must have accounting procedures acceptable to an installation auditor and the inspector general.

(v) Have a policy and practice of nondiscrimination on the basis of race, color, religion, sex, sexual orientation, gender identity or national origin applicable to persons served by the organization.

(vi) Prepare an annual report which includes a full description of the organization's activities and accomplishments. These reports must be made available to the public upon request.

(b) [Reserved]

§ 950.203 Public accountability standards.

(a) To ensure organizations wishing to solicit donations from Federal employees in the workplace are portraying accurately their programs and benefits, each organization seeking eligibility must meet annually applicable standards and certification requirements. Each organization, other than FSYA or FSYP, wishing to participate must:

(1) Certify that the organization is a human health and welfare organization providing services, benefits, or assistance to, or conducting activities affecting, human health and welfare. The organization's application must provide documentation describing the health and human welfare benefits provided by the organization within the previous calendar year;

(2) Subject to the exceptions listed in this section, certify that it accounts for its funds on an accrual basis in accordance with United States or International generally accepted accounting principles and that an audit of its fiscal operations is completed annually by an independent certified public accountant in accordance with generally accepted auditing standards. A copy of the organization's most recent annual audited financial statements must be included with the application. The statements must include all statements required for voluntary health and welfare organizations by the United States Financial Accounting Standards Board or the International Accounting Standards Board. The audited financial statements must cover the fiscal period ending not more than 18 months prior to the January of the year of the campaign for which the organization is applying. For example, the audited financial statements included in the 2014 application must cover the fiscal period ending on or after June 30, 2012.

(i) An organization with annual revenue of less than $100,000 reported on its IRS Form 990 or pro forma IRS Form 990 submitted to the CFC is not required to undergo an audit, submit audited financial statements, or to account for its funds on an accrual basis in accordance with generally accepted accounting principles. Rather, the organization must certify that it has controls in place to ensure that funds are properly accounted for and that it can provide accurate and timely financial information to interested parties.

(ii) An organization with annual revenue of at least $100,000 but less than $250,000 is not required to undergo an audit. The organization must certify that its financial statements are reviewed by an independent certified public accountant on an annual basis or are audited by an independent public accountant on an annual basis. A copy of the reviewed or audited financial statements must be included with the application.

(3) Certify that it prepares and submits to the IRS a complete copy of the organization's IRS Form 990 or that it is not required to prepare and submit an IRS Form 990 to the IRS. Provide a completed copy of the organization's IRS Form 990 submitted to the IRS covering a fiscal period ending not more than 18 months prior to the January of the year of the campaign for which the organization is applying, including signature, and all supplemental schedules, with the application, or if not required to file an IRS Form 990, provide a pro forma IRS Form 990. Pro forma IRS Form 990 instructions will be posted on the OPM Web site and included in the application instructions. IRS Forms 990EZ, 990PF, and comparable forms are not acceptable substitutes. The IRS Form 990 and audited financial statements, if required, must cover the same fiscal period.

(4) Provide a computation of the organization's percentage of total support and revenue spent on administrative and fundraising. This percentage shall be computed from information on the IRS Form 990

submitted pursuant to paragraph (a)(3) of this section.

(5) Certify that the organization is directed by an active and responsible governing body whose members have no material conflict of interest and, a majority of which serve without compensation.

(6) Certify that the organization's fundraising practices prohibit the sale or lease of its CFC contributor lists.

(7) Certify that its publicity and promotional activities are based upon its actual program and operations, are truthful and non-deceptive, and make no exaggerated or misleading claims.

(8) Certify that contributions are effectively used for the announced purposes of the charitable organization.

(9) Provide a statement that the certifying official is authorized by the organization to certify and affirm all statements required for inclusion on the Charity List.

(b) The Director shall review these applications for accuracy, completeness, and compliance with these regulations. Failure to supply any of this information may be judged a failure to comply with the requirements of public accountability, and the charitable organization may be ruled ineligible for inclusion on the Charity List.

(c) The Director may request such additional information as the Director deems necessary to complete these reviews. An organization that fails to comply with such requests within 10 calendar days from the date of receipt of the request may be judged ineligible.

(d) The required certifications and documentation must have been completed and submitted prior to the application filing deadline.

(e) The Director may waive any of these standards and certifications upon a showing of extenuating circumstances.

§ 950.204 Eligibility decisions and appeals.

(a) Organizations applying for participation in the CFC will be notified of the eligibility decision electronically via the email address(es) listed in the charity application.

(b) Organizations that apply and are denied eligibility for inclusion on the Charity List may appeal the decision by submitting a request for reconsideration. This request must be received within 10 business days from the date the decision to deny eligibility was sent via email and shall be limited to those facts justifying the reversal of the original decision.

(c) All appeals must:

(1) Be in writing;

(2) Be received by the Director within 10 business days of the date the decision to deny the application was sent via email;

(3) Include a statement explaining the reason(s) why eligibility should be granted; and

(4) Include a copy of the communication from OPM disapproving the original application and supporting information to justify the reversal of the original decision.

(d) Applications or appeals of an adverse eligibility determination must be submitted in a timely manner as indicated above.

(e) Appeals may not be used to supplement applications with documents that did not exist or were not set forth in final form prior to the application deadline. For example, audited financial statements that were not prepared or were in draft form at the time of the deadline cannot be used to document eligibility. Similarly, charities that had applied for, but had not obtained, 501(c)(3) status from the IRS by the CFC application deadline are not eligible to participate for that campaign year.

(f) The Director's decision is final for administrative purposes.

Subpart C—Federations

§ 950.301 Federation eligibility.

(a) The Director may recognize federations that conform to the requirements set by the Director and are eligible to receive designations. In order to determine whether the Director will recognize a federation, the Director may request evidence of corrective action regarding any prior violation of regulation or directive, sanction, or penalty, as appropriate. The Director retains the ultimate authority to decide whether the federation has demonstrated, to the Director's satisfaction, that the federation has taken appropriate corrective action. Failure to demonstrate satisfactory corrective action or to respond to the Director's request for information within 10 business days of the date of the request may result in a determination that the federation will not be included in the Charity List. The Director also reserves the authority to place a moratorium on the recognition of federations from time to time.

(b) By applying for inclusion in the CFC, federations consent to allow the Director complete access to its and its members' CFC books and records and to respond to requests for information by the Director.

(c) An organization may apply to the Director for inclusion as a federation to participate in the CFC if the applicant has, as members of the proposed federation, 15 or more charitable organizations, in addition to the federation itself, that meet the eligibility criteria of §§ 950.202 and 950.203. The federation must submit the applications of all its proposed member organizations annually.

(d) After an organization has been granted federation status, it may certify that its member organizations meet all eligibility criteria of § 950.202 and § 950.203 to be included on the Charity List. Federation status in a prior campaign is not a guarantee of federation status in a subsequent campaign. Failure to meet minimum federation eligibility requirements shall not be deemed to be a withdrawal of federation status subject to a hearing on the record.

(e) An applicant for federation status must annually certify and/or demonstrate:

(1) That all member organizations seeking participation in the CFC are qualified for inclusion on the National/International or International or Local part of the Charity List. Applicants must provide a complete list of those member organizations it certified in addition to each organization's complete application.

(2) That it meets the eligibility requirements and public accountability standards contained in § 950.202 and § 950.203. The federation can demonstrate that it has met the eligibility requirement in § 950.202(a) either through its own services, benefits, assistance or program activities or through its 15 members' activities.

(i) The federation must complete the certification set forth at § 950.203(a)(2) without regard to the amount of revenue reported on its IRS Form 990 and must provide a copy of its audited financial statements. The audited financial statements provided must verify that the federation is honoring designations made to each member organization by distributing a proportionate share of receipts based on donor designations to each member. The audit requirement is waived for newly created federations operating for less than two years from the date of its IRS tax-exemption letter to the closing date of the CFC application period.

(ii) The federation must provide a listing of its board of directors, beginning and ending dates of each member's current term of office, and the board's meeting dates and locations for the calendar year prior to the year of the campaign for which the organization is applying.

(3) That it does not employ in its CFC operations the services of private consultants, consulting firms, advertising agencies or similar business organizations to perform its policy-

making or decision-making functions in the CFC. It may, however, contract with entities or individuals such as banks, accountants, lawyers, and other vendors of goods and/or services to assist in accomplishing its administrative tasks.

(f) The Director will notify a federation if it is determined that the federation does not meet the eligibility requirements of this section. A federation may appeal an adverse eligibility decision in accordance with § 950.204.

(g) The Director may waive any eligibility criteria for federation status if it is determined that such a waiver will be in the best interest of the CFC.

(h) Two organizations—American Red Cross and United Service Organization—are exempt from the 15-member requirement of paragraph (c) of this section.

§ 950.302 Responsibilities of federations.

(a) Federations must ensure that only those member organizations that comply with all eligibility requirements included in these regulations are certified for participation in the CFC.

(b) The Director may elect to review, accept or reject the certifications of the eligibility of the members of federations. If the Director requests information supporting a certification of eligibility, that information shall be furnished promptly. Failure to furnish such information within 10 business days of the receipt of the request constitutes grounds for the denial of national eligibility of that member.

(c) Each federation, as fiscal agent for its member organizations, must ensure that Federal employee designations are honored in that each member organization receives its proportionate share of receipts based on the results of each individual campaign. The proportionate share of receipts is determined by donor designations to the individual member organization as compared to total campaign designations.

(d) Federations must disburse CFC funds to each member organization without any further deductions. Membership dues, fees, or other charges to member organizations must be assessed outside of the CFC disbursement process.

(e) Federations must disburse CFC funds to member organizations on a quarterly basis, at a minimum. The disbursements must be made within the months of June, September, December, and March.

(f) Disbursements to federation members that include funds from a non-CFC campaign must include a report that clearly identifies the amount of CFC funds.

Subpart D—Campaign Information

§ 950.401 Campaign and publicity information.

(a) The specific campaign marketing and publicity information will be developed locally, except as specified in the regulations in this subpart. All information must be reviewed and approved by the RCC for compliance with these regulations and will be developed and supplied by the RCC or contracted agent.

(b) During the CFC solicitation period, participating CFC organizations may distribute bona fide educational information describing its services or programs. The organization must be granted permission by the Federal agency installation head, or designee to distribute the material. CFC Other employees or members of the RCC, are not authorized to grant permission for the distribution of such information. If one organization is granted permission to distribute educational information, then the Federal agency installation head must allow any other requesting CFC organization to distribute educational information.

(c) Organizations and federations are encouraged to publicize their activities outside Federal facilities and to broadcast messages aimed at Federal employees in an attempt to solicit their contributions through the media and other outlets.

(d) Agency Heads are further authorized to permit the distribution by organizations of promotional information to Federal personnel in public areas of Federal workplaces in connection with the CFC, provided that the manner of distribution accords equal treatment to all charitable organizations furnishing such information for local use, and further provided that no such distribution shall utilize Federal personnel on official duty or interfere with Federal government activities. RCC members and other campaign personnel are to be particularly aware of the prohibition of assisting any charitable organization or federated group in distributing any type of literature, especially during the campaign. Nothing in this section shall be construed to require a RCC to distribute or arrange for the distribution of any material other than RCC approved marketing materials.

(e) The Campaign Charity List and pledge form are the official sources of CFC information and shall be made available in electronic format to all potential contributors. The Charity List and pledging system must inform employees of their right to make a choice to contribute or not to contribute.

(f) Campaign marketing materials must be comprised of a simple and attractive design that is donor focused and has fundraising appeal and essential working information. The design must focus on the CFC without undue use of charitable organization symbols and logos or other distractions that compete for the donor's attention.

(g) The following applies specifically to the campaign Charity List:

(1) OPM will provide the approved Charity List as well as general campaign information. This will include:

(i) An explanation of the payroll deduction privilege.

(ii) A description and explanation of other electronic pledging, to include credit cards.

(iii) A statement that the donor may only designate charitable organizations or federations that are listed in the Charity List and that write-ins are prohibited.

(iv) Instructions as to how an employee may obtain more specific information about the programs and the finances of the organizations participating in the campaign.

(v) A description of employees' rights to pursue complaints of undue pressure or coercion in Federal fundraising activities.

(2) The Charity List will consist of National/International, International, and Local organizations. The order of these organizations will be rotated annually in accordance with OPM instructions. The order of listing of the federated and independent organizations will be determined by a random selection process. The order of organizations within each federation will be determined by the federation. The order within the National/International, International and Local independent groups will be alphabetical. Absent specific instructions from OPM to the contrary, each participating organization and federated group listing must include a description, not to exceed 256 characters, of its services and programs, plus a Web site address and telephone number for the Federal donor to obtain further information about the group's services, benefits, and administrative expenses. Each listing will include the organization's administration and fundraising percentage as calculated pursuant to § 950.203(a)(4). Neither the percentage of administrative and fundraising expenses, nor the Web site address or telephone number count toward the 256 character description.

(3) Each federation and charitable organization will be assigned a code in

a manner determined by the Director. At the beginning of each federated group's listing will be the federation's name, code number, 256 character description, percentage of administrative and fundraising expenses, Web site address and telephone number. Each organization will be identified as National/International, International and Local, respectively.

(h) *Listing of national and local affiliate.* Listing of a national organization, as well as its local affiliate organization, is permitted. Each national or local organization must individually meet all of the eligibility criteria and submit independent documentation as required in § 950.202 and § 950.203 to be included in the Charity List. However, a local affiliate of a national organization that is not separately incorporated, in lieu of its own 26 U.S.C. 501(c)(3) tax exemption letter and, to the extent required by § 950.203(a)(2), audited financial statements, may submit the national organization's 26 U.S.C. 501(c)(3) tax exemption letter and audited financial statements, but must provide its own pro forma IRS Form 990, as defined in§ 950.203(a)(3), for CFC purposes. The local affiliate must submit a certification from the Chief Executive Officer (CEO) or CEO equivalent of the national organization stating that it operates as a bonafide chapter or affiliate in good standing of the national organization and is covered by the national organization's 26 U.S.C. 501(c)(3) tax exemption, IRS Form 990 and audited financial statements.

(i) *Listing local offices.* Listing of a local organization, as well as its satellite offices, is permitted, as long as there is no more than one location within a county or parish. Each office must individually meet all of the eligibility criteria and submit independent documentation as required in § 950.202 and § 950.203 to be included in the Charity List. However, a satellite office that is not separately incorporated, in lieu of its own 26 U.S.C. 501(c)(3) tax exemption letter and, to the extent required by § 950.203(a)(2), audited financial statements, may submit the local organization's 26 U.S.C. 501(c)(3) tax exemption letter and audited financial statements, but must provide its own pro forma IRS Form 990, as defined in § 950.203(a)(3), for CFC purposes. The satellite office must submit a certification from the Chief Executive Officer (CEO) or CEO equivalent of the local organization stating that it operates as a bonafide office in good standing and is covered by the local organization's 26 U.S.C. 501(c)(3) tax exemption, IRS Form 990 and audited financial statements.

(j) *Multiple listing prohibited.* Except as provided in paragraphs (h) and (i) of this section, once an organization is deemed eligible, it is entitled to only one listing in the Charity List, regardless of the number of federations to which that organization belongs.

§ 950.402 Pledge form.

(a) The Director will provide guidance with regard to the data required for electronic pledge processing.

(b) An employee may not make a designation to an organization not listed in the Charity List. All pledges must be designated to specific CFC participating organization(s). No undesignated pledges will be allowed.

Subpart E—Miscellaneous Provisions

§ 950.501 Release of contributor information.

(a) The pledge form, designed pursuant to § 950.402, must allow a contributor to indicate if the contributor will allow his or her name, contribution amount, and home contact information to be forwarded to the charitable organization or organizations designated.

(b) The pledge form shall permit a contributor to specify which information, if any, he or she wishes released to organizations receiving his or her donations.

(c) It is the responsibility of the CCA to forward the contributor information for those who have indicated that they wish this information to be released to the recipient organization directly, if the organization is independent, and to the organization's federation if the organization is a member of a federation. The contributor information must be forwarded as soon as practicable after the completion of the campaign, but in no case later than a date to be determined by OPM. The date will be part of the annual timetable issued by the Director under § 950.601(b). The federation is responsible for ensuring the information is released to the appropriate member organization. The CCA may not sell or make any other use of this information. Federations may not retain donor information for their own use unless the donor made a direct designation to the federation itself. This policy also prohibits the sharing of donor information, even free of charge.

§ 950.502 Solicitation methods.

(a) Employee solicitations shall be conducted during duty hours using methods that permit true voluntary giving and shall reserve to the individual the option of disclosing any gift or keeping it confidential. Campaign kick-offs, victory events, awards, and other non-solicitation events to build support for the CFC are encouraged.

(b) Special CFC events, are permitted during the campaign if approved by the appropriate agency head or government official, consistent with agency ethics regulations. No costs for food or entertainment at a special event may be charged to the CFC. CFC special events must be undertaken in the spirit of generating interest in the CFC and be open to all individuals without regard to whether an individual participates in the CFC. If prizes are offered, they must be modest in nature and value. Examples of appropriate prizes may include opportunities for lunch with agency officials, agency parking spaces for a specific time period, and gifts of minimal financial value. Any special CFC event and associated prize or gift must be approved in advance by the Agency's ethics official to ensure that the special event is consistent with Office of Government Ethics regulations and its own regulations and policy. No funds may be raised at these events.

§ 950.503 Sanctions and penalties.

(a)(1) The Director may impose sanctions or penalties on a federation, charitable organization or marketing organization for violating these regulations, other applicable provisions of law, or any directive or instruction from the Director. The Director will determine the appropriate sanction and/or penalty, up to and including expulsion from the CFC. In determining the appropriate sanction and/or penalty, the Director will consider previous violations, harm to Federal employee confidence in the CFC, and any other relevant factors. A federation, charitable organization or marketing organization will be notified in writing of the Director's intent to sanction and/or penalize and will have 10 business days from the date of receipt of the notice to submit a written response. The Director's final decision will be communicated in writing to the federation, charitable organization or marketing organization.

(2) The Director may withdraw federation status with respect to a National/International, International or Local federation that makes a false certification or fails to comply with any directive of the Director, or to respond in a timely fashion to a request by the Director for information or cooperation, including with respect to an investigation or in the settlement of disbursements. As stated in § 950.301(d), failure to meet minimum

federation eligibility requirements shall not be deemed to be a withdrawal of federation status subject to a hearing on the record. Eligibility decisions shall follow the procedures in § 950.301(f). A federation will be notified in writing of the Director's intent to withdraw federation status for a period of up to one campaign and will have 10 business days from the date of receipt of the notice to submit a written response. On receipt of the response, or in the absence of a timely response, the Director or representative shall set a date, time, and place for a hearing. The federation shall be notified at least 10 business days in advance of the hearing. A hearing shall be conducted by a hearing officer designated by the Director unless it is waived in writing by the federation. After the hearing is held, or after the Director's receipt of the federation's written waiver of the hearing, the Director shall make a final decision on the record, taking into consideration the recommendation submitted by the hearing officer. The Director's final decision will be communicated in writing to the federation.

(3) A federation, charitable organization or marketing organization sanctioned or penalized under any provision of these regulations must demonstrate to the satisfaction of the Director that it has taken corrective action to resolve the reason for sanction and/or penalty and has implemented reasonable and appropriate controls to ensure that the situation will not occur again prior to being allowed to participate in subsequent CFCs.

(b) At the Director's discretion, CCAs, payroll offices and Federations may be directed to suspend distribution of current and future CFC donations from Federal employees to recipient organizations. CCAs, payroll offices and Federations shall immediately place suspended contributions in an interest bearing account until directed to do otherwise.

§ 950.504 Records retention.

Federations, CCAs and other participants in the CFC shall retain documents pertinent to the campaign for at least three completed campaigns. For example, documentation regarding the 2014 campaign must be retained through the completion of the 2015, 2016 and 2017 campaigns (*i.e.* until early 2019). Documents requested by OPM must be made available within 10 business days of the request.

§ 950.505 Sanctions compliance certification.

Each federation, federation member and independent organization applying for participation in the CFC must, as a condition of participation, complete a certification that it is in compliance with all statutes, Executive orders, and regulations restricting or prohibiting U.S. persons from engaging in transactions and dealings with countries, entities or individuals subject to economic sanctions administered by the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC). Should any change in circumstances pertaining to this certification occur at any time, the organization must notify OPM's Office of CFC immediately. OPM will take such steps as it deems appropriate under the circumstances, including, but not limited to, notifying OFAC and/or other enforcement authorities of such change, suspending disbursement of CFC funds not yet disbursed, retracting (to the extent practicable) CFC funds already disbursed, and suspending or expelling the organization from the CFC.

Subpart F—CFC Timetable

§ 950.601 Campaign schedule.

(a) The Combined Federal Campaign will be conducted according to the following timetable.

(1) During a period between December and January, as determined by the Director, OPM will accept applications from organizations seeking to be listed on the Charity List.

(2) The Director will determine a date after the closing of the receipt of applications by which the Director will issue notices to each applicant organization of the results of the Director's review. The date will be part of the annual timetable issued by the Director under paragraph (b) of this section.

(b) The Director will issue a timetable annually for accepting and processing applications. The Director will issue the timetable for a campaign no later than October 31 of the year preceding the campaign.

Subpart G—Payroll Withholding

§ 950.701 Payroll allotment.

The policies and procedures in this section are authorized for payroll withholding operations in accordance with the Office of Personnel Management Pay Administration regulations in part 550 of this Title.

(a) *Applicability.* Voluntary payroll allotments will be authorized by all Federal departments and agencies for payment of charitable contributions to local CFC organizations.

(b) *Allotters.* The allotment privilege will be made available to Federal personnel as follows:

(1) Employees whose net pay regularly is sufficient to cover the allotment are eligible. An employee serving under an appointment limited to 1 year or less may make an allotment to a CFC when an appropriate official of the employing Federal agency determines that the employee will continue employment for a period sufficient to justify an allotment. This includes military reservists, National Guard, and other part-time and intermittent employees who are regularly employed.

(2) Members of the Uniformed Services are eligible, excluding those on only short-term assignment (less than 3 months).

(c) *Authorization.* Allotments will be totally voluntary and will be based upon contributor's individual authorization.

(1) The CFC Pledge Form, in conformance with § 950.402, is the only form for authorization of the CFC payroll allotment and may be reproduced. The pledge forms and official Charity List will be made available to employees electronically when charitable contributions are solicited.

(2) The electronic pledge is transmitted to the contributor's servicing payroll office in real time via the centralized pledge system.

(d) *Duration.* Authorization of allotments will be in the form of a term allotment. Term authorizations will be in effect for 1 full year—26, 24, or 12 pay periods depending on the allotter's pay schedule—starting with the first pay period after January 15 and ending with the last pay period that includes January 15 of the following year. Three months of employment is considered the minimum amount of time that is reasonable for establishing an allotment.

(e) *Amount.* Allotters will make a single allotment that is apportioned into equal amounts for deductions each pay period during the year.

(1) The minimum amount of the allotment will not be less than $1 per payday per charitable organization, with no restriction on the size of the increment above that minimum.

(2) No change of amount will be authorized for term allotments.

(3) No deduction will be made for any period in which the allotter's net pay, after all legal and previously authorized deductions, is insufficient to cover the CFC allotment. No adjustment will be made in subsequent periods to make up for missed deductions.

(f) *Discontinuance.* Term allotments will be discontinued automatically on expiration of the 1 year withholding period, or on the death, retirement, or separation of the allotter from the Federal service, whichever is earlier.

(1) An allotter may revoke a term authorization at any time by requesting it in writing from the payroll office. Discontinuance will be effective the first pay period beginning after receipt of the written revocation in the payroll office.

(2) A discontinued allotment will not be reinstated.

(g) *Transfer.* When an allotter moves to another organizational unit, whether in the same office or a different Department or agency, his or her allotment authorization must be transferred to the new payroll office.

Subpart H—Accounting and Distribution

§ 950.801 Accounting and distribution.

(a) *Remittance.* One electronic funds transfer (EFT) will be transmitted by the payroll office each pay period, in the gross amount of deductions on the basis of current authorizations, to each charity/federation or to the CCA as determined by the Director.

(1) Should the distribution be made to the CCA, the EFT will be accompanied by an electronic transmittal identifying the Federal agency, the dates of the pay period, the pay period number, employee names and deduction amounts per individual employee.

(2) [Reserved]

(b) *Accounting.* (1) OPM may require Federal payroll offices to oversee the establishment of individual allotment accounts, the deductions each pay period, and the reconciliation of employee accounts in accordance with agency and Federal Accounting Standards and Office of Management and Budget requirements. OPM may further require that Federal payroll offices ensure the accuracy of remittances, as supported by current allotment authorizations, and internal accounting and auditing requirements.

(2) The CCA shall notify the federations, national and international organizations, and local organizations as soon as practicable after the completion of the campaign, but in no case later than a date to be determined by OPM, of the amounts, if any, designated to them and their member agencies. The date will be part of the annual timetable issued by the Director under § 950.601(b). The CCA is also responsible for distributing credit card receipts and, if determined by the Director, payroll deductions transmitted by the payroll offices. It is responsible for the accuracy of disbursements it transmits to recipients. The CCA will distribute all CFC receipts beginning April 1, and quarterly thereafter. It shall remit the contributions to each organization or to the federation, if any, of which the organization is a member. At the close of each disbursement period, the CFC account shall have a balance of zero, based on the last reconciled bank statement.

(3) Federated organizations, or their designated agents, are responsible for:

(i) The accuracy of distribution among the charitable organizations of remittances from the payroll offices and/or CCA; and

(ii) Arrangements for an independent audit conducted by a certified public accountant agreed upon by the participating charitable organizations.

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DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[Docket No. EERE–2011–BT–TP–0061]

RIN 1904–AC65

Energy Conservation Program for Consumer Products and Certain Commercial and Industrial Equipment: Test Procedures for Showerheads, Faucets, Water Closets, Urinals, and Commercial Prerinse Spray Valves

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

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The U.S. Department of Energy (DOE) proposes amendments to its May 2012 notice of proposed rulemaking related to DOE test procedures for showerheads, faucets, water closets, urinals, and commercial prerinse spray valves. The amendments proposed in this supplemental notice of proposed rulemaking include revisions to the definitions of showerhead and hand-held showerhead; removal of body sprays from the proposed showerhead definition; requirements pertaining to testing of showerheads that are components of shower towers; a standardized test method to be used when verifying the mechanical retention of a showerhead flow control insert when subjected to 8 pounds force; clarification of permissible trim adjustments for tank-type water closets; and amendments to the required static test pressures to be used when testing flushometer valve siphonic and blowout water closets. DOE also proposes further clarification of the definition of basic model with respect to flushometer valve water closets and urinals, as well as associated changes to certification reporting requirements for these products.

DATES: DOE will accept comments, data, and information regarding this SNOPR no later than May 8, 2013. See section IV, ''Public Participation,'' for details.

ADDRESSES: Interested parties may submit comments, identified by docket number EERE–2011–BT–TP–0061 or Regulation Identifier Number (RIN) 1904–AC65, by any of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: PlumbingPrds-2011–TP–0061@ee.doe.gov.* Include the docket number and/or RIN in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a CD. It is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD. It is not necessary to include printed copies.

For detailed instructions on submitting comments and additional information on the rulemaking process, see section IV of this document (''Public Participation'').

Docket: The docket, including **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at regulations.gov. All documents in the docket are listed in the regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

A link to the docket Web page can be found at: *http://www.regulations.gov/#!docketDetail;dct=FR%252BPR%252BN%252BO%252BSR%252BPS;rpp=10;po=0;D=EERE-2011-BT-TP-0061.* This Web page will contain a link to the docket for this notice on the regulations.gov site. The regulations.gov Web page will contain simple instructions on how to access all documents, including public comments,

in the docket. See section IV, ''Public Participation,'' for information on how to submit comments through regulations.gov.

For further information on how to submit a comment, review other public comments and the docket, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT:

Mr. Lucas Adin, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1317. Email: *Lucas.Adin@ee.doe.gov.*

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

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I. Background and Authority

A. Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles, which includes the showerheads, faucets, water closets, and urinals that are the subjects of today's notice.[1]

Under EPCA, this program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy and water conservation standards, and (4) certification and enforcement procedures. The testing requirements include test procedures that manufacturers of covered products must use as the basis for (1) certifying to the DOE that their products comply with applicable energy and water conservation standards adopted under EPCA and (2) making representations about the energy or water consumption of those products on labels and other materials. Similarly, DOE must use these test procedures to determine whether the products comply with any relevant standards promulgated under EPCA.

B. Background

EPCA states that the procedures for testing and measuring the water use of faucets and showerheads shall be American Society of Mechanical Engineers (ASME) Standard A112.18.1M–1989, ''Plumbing Fixture Fittings,'' and the test procedure for water closets and urinals shall be ASME Standard A112.19.6–1990, ''Hydraulic Requirements for Water Closets and Urinals.'' EPCA further specifies that if ASME revises these requirements, the Secretary of Energy (Secretary) shall adopt such revisions if they conform to the basic statutory requirements for test procedures. (42 U.S.C. 6293(b)(7)–(8)) DOE last amended test procedures for these products in a final rule published in March 1998 (March 1998 final rule), which incorporated by reference ASME Standard A112.18.1M–1996, ''Plumbing Fixture Fittings,'' for showerheads and faucets, and ASME Standard A112.19.6–1995, ''Hydraulic Performance Requirements for Water Closets and Urinals,'' for water closets and urinals. 63 FR 13308 (March 18, 1998). Since publication of the March 1998 final rule, ASME has revised both procedures and harmonized them with the corresponding standards of the Canadian Standards Association (CSA). ASME and CSA issued the most recent version for showerheads and faucets in June 2011 as ASME A112.18.1–2011/CSA B125.1–11, ''Plumbing Supply Fittings,'' and issued the most recent version for water closets and urinals in August 2008 as ASME A112.19.2–2008/CSA B45.1–08, ''Ceramic Plumbing Fixtures.'' These standards are referred to in this notice as ASME A112.18.1–2011 and ASME A112.19.2–2008, respectively.

On May 30, 2012, DOE issued a notice of proposed rulemaking (the May 2012 NOPR) proposing to amend the test procedures for showerheads, faucets, water closets, and urinals to incorporate by reference, with the exception of certain provisions regarding rounding of measured values, ASME A112.18.1–2011 and ASME A112.19.2–2008. 77 FR 31742, 31744. DOE also proposed to update its reference to the latest version of the ASTM International (ASTM) standard for commercial prerinse spray valves by incorporating by reference ASTM Standard F2324–03 (2009), ''Standard Test Method for Prerinse Spray Valves.'' 77 FR at 31744. In the May 2012 NOPR, DOE also proposed additional provisions, including test procedures for measuring representative average flush volume for dual-flush water closets; requested comments on the standardized test method for showerhead flow control insert retention requirement; proposed definitions related to showerheads, body sprays, and hand-held showerheads; and proposed clarifications to the basic model definition with respect to water closets and urinals. 77 FR at 31746–31748.

In response to DOE's proposed test procedure amendments, as presented in the May 2012 NOPR, several interested parties provided comments. DOE has considered all submitted comments and conducted additional analyses in preparation of a revised proposal to amend the test procedures for showerheads, faucets, water closets, and urinals, as presented in this supplemental notice of proposed rulemaking (SNOPR). A more detailed discussion of the comments received and DOE's response is provided in section II, ''Discussion.'' This SNOPR addresses only proposed modifications to its earlier proposal and those comments received in response to the NOPR that are relevant to the proposed changes. All other comments received regarding the May 2012 NOPR will be addressed in the test procedure final rule.

In this SNOPR, DOE proposes to revise the definitions of showerhead and hand-held showerhead; proposes to remove body sprays from the definition of the term showerhead proposed in the NOPR; proposes a standardized test method for the mechanical retention of a showerhead flow control insert when subjected to 8 pounds force (lbf); provides clarification of allowable trim adjustments for gravity flush tank water closets; and proposes amendments to the required static test pressures when

[1] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

testing flushometer valve siphonic and blowout water closets. DOE also proposes further clarification of the definition of basic model with respect to flushometer water closets and urinals, as well as associated changes to certification reporting requirements, including specific provisions regarding the testing and reporting of dual-flush water closets.

C. General Test Procedure Rulemaking Process

In 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA provides, in relevant part, that any test procedures prescribed or amended under this section shall be reasonably designed to produce test results that measure energy efficiency, energy use, water use (in the case of showerheads, faucets, water closets, and urinals), or estimated annual operating cost of a covered product during a representative average use cycle or period of use and shall not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

In addition, if DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6293(b)(2)) Finally, in any rulemaking to amend test procedures, DOE must determine to what extent, if any, the proposed test procedures would alter the measured energy efficiency of any covered product as determined under the existing test procedures. (42 U.S.C. 6293(e)(1)) If DOE determines that the amended test procedures would alter the measured efficiency of a covered product, DOE must amend the applicable energy conservation standard accordingly. (42 U.S.C. 6293(e)(2))

Any representation as to the water consumption of the products that are the subjects of this rulemaking made 180 days after the date of publication of an amended test procedure final rule must be based upon results generated under the applicable provisions of any amended test procedures. (42 U.S.C. 6293(c)(2)) However, the 180 day period may be extended for an additional 180 days if the Secretary determines that this requirement would impose an undue burden. (42 U.S.C. 6293(c)(3)) Upon the compliance date(s) of any amended water conservation standard(s) for faucets and showerheads, use of the applicable provisions of the amended test procedures to demonstrate compliance with the water conservation standard(s) will also be required.

II. Discussion

On July 24, 2012, DOE held a public meeting to discuss proposed amendments to the test procedures for showerheads, faucets, water closets, and urinals presented in the May 2012 NOPR. During the public meeting, and in subsequent written comments, interested parties provided DOE with feedback on the proposed test procedure amendments. These comments are available for viewing in the public docket for this rulemaking (Docket No. EERE–2011–BT–TP–0061). Comments from interested parties addressed in this SNOPR involve the following issues:

1. DOE's definitions of showerhead, body spray, and hand-held shower;
2. Test procedure requirements for showerhead flow control insert retention;
3. The definition of basic model with respect to water closets and urinals;
4. Trim adjustments for gravity flush tank water closets;
5. Static pressures for testing of flushometer valve siphonic and blowout water closets; and
6. Testing and reporting of dual-flush water closets.

Specific comments received from interested parties and DOE's responses are set forth in sections II.A and II.B of this document.

A. DOE Test Procedures for Plumbing Products

1. Definitions

In the May 2012 NOPR, DOE proposed a modification to the definition of ''showerhead'' based on the definition in ASME A112.18.1–2011. DOE's proposed definition in the May 2012 NOPR stated that a ''showerhead means an accessory, or set of accessories, to a supply fitting distributed in commerce for attachment to a single supply fitting, for spraying water onto a bather, typically from an overhead position, including body sprays and hand-held showers, but excluding safety showerheads.'' 77 FR at 31755. DOE proposed this modified form of the ASME definition to more clearly define the extent of DOE's coverage of these products, and to clarify that safety shower showerheads are not covered products, and that hand-held showerheads are covered.

In response, Kohler Company (Kohler) and Sloan Valve Company (Sloan Valve) recommended that, for consistency with the ASME standard, DOE should use the showerhead definition found in ASME A112.18.1–2011: ''An accessory to a supply fitting for spraying water onto a bather, typically from the overhead position.'' (Kohler, No. 9 at p. 4 Sloan Valve, No. 12 at p. 3) The National Resources Defense Council (NRDC) commented that a showerhead should not be defined as an accessory. (NRDC, Public Meeting Transcript, No. 11 at pp. 54–55)

Comments submitted by Plumbing Manufacturers International (PMI), Moen Incorporated (Moen), and Kohler stated that body sprays should not be included in the definition of showerhead because body sprays are not considered accessories since they cannot be readily added or removed by the user. (PMI, No. 8 at p. 4; Moen, No. 4 at p. 3; Kohler, No. 9 at p. 4) On the contrary, NRDC supported the incorporation of body sprays in the showerhead definition. (NRDC, Public Meeting Transcript, No. 11 at pp. 57–58) The International Code Council (ICC) supported DOE's proposed showerhead definition and recommended that the term ''showerhead'' be incorporated in the definition of body spray to clearly indicate that body sprays are considered a form of showerhead. (ICC, Public Meeting Transcript, No. 11 at pp. 55–56)

DOE has determined that the current ASME showerhead definition, recommended by Kohler and Sloan, does not sufficiently address DOE's regulatory coverage of showerheads by not specifically including hand-held showerheads or excluding safety shower showerheads. Further, although in the NOPR DOE sought to clarify that body sprays are showerheads for purposes of regulatory coverage, in light of the concerns that some commenters have raised regarding the proposal and DOE's need to further study the issue, DOE withdraws its proposal to include body sprays in the showerhead definition at this time. Additionally, based on consideration of the comments received, DOE proposes in this SNOPR to exclude the term ''accessory'' from the definition of showerhead, and proposes to define ''showerhead'' as follows: ''A component of a supply fitting, or set of components distributed in commerce for attachment to a single supply fitting, for spraying water onto a bather, typically from an overhead position, including hand-held showerheads, but excluding safety shower showerheads.''

Comments were also received from Moen, PMI, Kohler, and Sloan Valve during the public comment period following publication of the May 2012 NOPR, requesting that DOE incorporate ASME's draft definition of hand-held showerhead: ''An accessory to a supply fitting, that can be hand-held or fixed in place for the purpose of spraying water onto a bather, and which is connected to a flexible hose.'' (Moen, No. 4 at p. 3; PMI, No. 8 at p. 4; PMI, Public

Meeting Transcript, No. 11 at pp. 56–57; Kohler, No. 9, pp. 3–4; Sloan Valve, No. 12 at p. 3) However, DOE believes that incorporating the phrase ''and which is connected to a flexible hose'' found in the ASME hand-held showerhead definition restricts the definition because it may not encompass all hand-held showerhead configurations in the marketplace. Therefore, in this SNOPR, DOE proposes to define ''hand-held showerhead'' as follows: ''A showerhead that can be hand-held or fixed in place for the purpose of spraying water onto a bather.''

In addition, because DOE proposes to exclude body sprays from the current definition of showerhead, DOE proposes (as explained below) to revise its test procedure to clarify that body sprays that are components of ''shower towers'' should be turned off during testing to permit testing of the integral showerhead(s). For context, DOE generally understands that the term shower tower is typically used in reference to single supply fittings that are designed for attachment to one or more hot and cold water connections in a shower or bath and that are comprised of at least one showerhead and one or more body sprays, but that may also include a hand-held showerhead and either a valve for selecting spraying components, a thermostatic mixing valve, or both.

DOE also seeks to clarify the treatment of other products that are components of a shower tower but are otherwise covered. Based upon the description in the previous paragraph, a shower tower would represent a combined system that delivers water to individual supply fittings downstream of a temperature mixing valve. If each covered spraying component is individually isolable from any other covered spraying component downstream of the mixing valve by a valve or other isolating device installed within the plumbing system and not within the spraying device itself, each spraying component represents an individual supply fitting that is covered separately. This is in contrast to a product that has multiple spraying components and is designed to be attached to a single supply fitting downstream of the mixing valve, such as the threaded overhead pipe in a shower. According to the definition of ''showerhead'' proposed in this notice, such a product would be covered as a showerhead since it is designed to be attached to a single supply fitting. The product itself may contain a valve or other device to isolate its spraying components from each other, but since the spraying components and diverter device are distributed in commerce together for attachment as a composite unit to a supply fitting, the product is distinct from the plumbing system. In the case of the shower tower, the device that isolates one spraying component from one or more other spraying components is within the plumbing system, making the spraying components separate fittings.

Finally, DOE notes that no definition currently exists in EPCA or in 10 CFR 430.2 for the term ''safety shower showerhead,'' which is a type of showerhead specifically excluded from coverage by EPCA. 42 U.S.C. 6291(31)(D). Because of this lack of a definition, confusion may exist as to which products qualify for exclusion from coverage. DOE notes that the current Occupational Safety and Health Administration (OSHA) regulation addressing safety showers, which is located at 29 CFR 1910.151(c), does not define the term or specify required characteristics of a safety shower showerhead. However, certain State regulatory requirements that address safety showers use as a reference American National Standards Institute (ANSI) Standard Z358.1, Emergency Eyewash and Shower Equipment.[2] This standard contains specific design and performance criteria that safety showers must meet, such as flow rate and accessibility, which may enable the establishment of a common definition for the showerhead portion of a safety shower. DOE is interested in receiving comments on whether such a definition is needed, and if so, whether it is appropriate to define a safety shower showerhead as a showerhead that is designed to meet the requirements of ANSI Standard Z358.1, or if a more appropriate definition exists.

DOE requests comments on these proposed changes to the definitions of showerhead and hand-held showerhead, its proposal not to include body sprays in the proposed showerhead definition, its proposal that body sprays that are components of shower towers be disabled during testing, and on the need for a definition of safety shower showerhead.

2. Test Procedure for Showerhead Flow Control Insert

EPCA includes a provision that showerheads must meet the requirements of section 7.4.3(a) of ASME A112.18.1M–1989, which requires that if a flow control insert is used as a component of a showerhead, the showerhead must be manufactured such that a pushing or pulling force of 8 lbf or more is required to remove the flow control insert. (42 U.S.C. 6295(j)(1)) DOE subsequently adopted this provision in 10 CFR 430.32(p), and later updated that paragraph upon incorporation by reference of ASME A112.19.1M–1996 to reflect that it had been moved to section 7.4.4(a). This provision has been retained in the updated A112.18.1–2011, but has been moved from section 7.4.4(a) to section 4.11.1.

In the May 2012 NOPR, DOE did not propose to change this design requirement, but requested comments and information on prospective methods for verifying that the requirement in section 4.11.1 of ASME A112.18.1–2011 has been met, as well as comments and information on showerhead designs that may complicate verification of the force requirement or make verification unnecessary. 77 FR at 31747.

Moen, PMI, Kohler, ICC, and Sloan Valve commented that DOE should not develop a standardized test for flow control insert retention to address the showerhead design requirement. These commenters noted that it would be difficult to design a standardized test that could accommodate different designs in the marketplace and that such a test could hinder innovation of new products and make showerhead repair difficult. (Moen, No. 4 at p. 2; PMI, No. 8 at p. 2; Kohler, No. 9 at p. 3; Kohler, Public Meeting Transcript, No. 11 at p. 47; ICC, Public Meeting Transcript, No. 11 at pp. 48–49; Sloan Valve, No. 12 at p. 2) In contrast, NRDC recommended that DOE develop a standardized test procedure to ensure that manufacturers produce showerheads with flow control inserts that are not easily removed. (NRDC, Public Meeting Transcript, No. 11 at pp. 47–48)

After receiving comments on this issue, DOE obtained 21 showerheads to investigate the design requirement for retention of the flow control insert. The selected showerheads included a variety of brands and styles. In general, there were four basic flow control designs:

(1) Some showerheads contained a plastic disc insert, either with or without an o-ring in the middle of the insert;

(2) Others contained a rubber disc insert;

(3) Others did not have any flow control insert; instead, flow control was integral to the showerhead housing; and

(4) One showerhead's sealing gasket (*i.e.,* the seal between the showerhead

[2] For example, see Title 8 of the California Code of Regulations, Section 5162, Emergency Eyewash and Shower Equipment.

and the supply fitting) also functioned as the flow control mechanism.

Showerheads with integral flow control were found to automatically meet the design requirements per A112.18.1–2011, section 4.11.1 because these showerheads did not contain a flow control insert that could be removed. The showerheads that used a sealing gasket as the flow control mechanism were exempt from the design requirement because A112.18.1, section 4.11.1 states that the design requirement does not apply if significant leakage between the showerhead and supply fitting occurs as a result of the flow control insert being removed, and these products leak significantly from areas other than the spray face when used without the gasket. In this context, DOE interprets the term ''leak significantly'' to mean the visible emergence of water from parts of the showerhead other than the spray face or nozzle that does not occur when the flow control insert is installed, such as from the connection between the showerhead and the plumbing fitting.

DOE then tested subsets of the remaining showerheads (*i.e.,* those with plastic disc inserts and rubber disc inserts) using two different methods to determine the optimal method for determining whether the flow control insert could be removed using a pushing or pulling force of less than 8 pounds.

a. Pulling-Force Test

First, DOE conducted a pulling-force test, which involved the following general steps, on a subset [3] of the relevant showerheads: (1) Removing (a) the showerhead's sealing gasket, which provides a seal between the showerhead and supply fitting, and (b) the screen upstream of the flow control insert; (2) securing the showerhead; (3) attaching a clamp to the flow control insert that could withstand a force of at least 20 lbf; (4) attaching a force transducer to the clamp, which was capable of measuring a maximum force of 25 lbf on the flow control insert; and (5) applying a consistent pulling force to the flow control insert for between 10 and 20 seconds with the average pulling force recorded at 0.5 second intervals.

Of the 10 showerheads subjected to the pulling-force test, three flow control inserts (two plastic disc flow control inserts and one rubber disc insert) were clearly removed with a pulling force of under 8 lbf, while two flow control inserts (both plastic disc inserts) were removed with a force close enough to the 8 lbf level that it was unclear whether the actual force required to remove the insert was more or less than 8 lbf. Five showerheads that contained plastic disc flow control inserts were tested and the inserts could not be removed with a pulling force of 8 lbf.

b. Gravity Test

As a potential alternative to the pulling-force test, DOE developed a gravity test that simplifies the pulling-force test by using a calibrated 8 pound-mass (lbm) to exert a constant 8 lbf on the flow control insert. This test, which is described in further detail in the section below, eliminates the requirement for a force transducer and data logger, limits cost burden, and ensures the test is easily repeatable. Of the 5 units subjected to this test, 2 failed and 3 passed; the results were not inconclusive for any of the units.

c. Conclusions Based on DOE Testing

DOE's investigation and lessons learned from the preliminary testing described above showed that, with respect to flow control insert testing, there are three general categories of showerheads: (1) Showerheads that contain a flow control insert that is also the sealing gasket and are therefore exempt from the design requirement; (2) showerheads with a flow control device that is an integral feature of the housing and cannot be removed and are therefore exempt from the showerhead design requirement; and (3) showerheads containing a flow control insert where testing of the insert retention can be accomplished using a pulling-style test. DOE found no showerheads for which the flow control insert could be more easily removed using a pushing force rather than a pulling force.

Thus, in this SNOPR, DOE proposes a simplified gravity pull-style test procedure that will allow DOE to validate the statutory flow control insert design requirement that is currently included in manufacturers' certification reports. The proposed test method includes the following steps: (1) Remove the showerhead's sealing gasket, which provides a seal between the showerhead and supply fitting, and the screen upstream of the flow control insert (however, if the sealing gasket also functions as the flow control insert and would cause visible leakage from areas other than the showerhead's spray face if removed, then the showerhead would be exempted from the design requirement and no further testing would be necessary); (2) attach a clamp (or other grasping device) to the flow control insert such that a force of at least 8 lbf can be applied without separating the clamp (or other device) from the flow control insert (if a clamp or other grasping device that would enable physical removal of the flow control insert cannot be attached, then the showerhead meets the design requirement and no further testing would be necessary); (3) secure the showerhead such that the visible face of the flow control insert is downward (*e.g.,* the spraying face of the showerhead faces directly upward) and a force of at least 8 lbf will not cause the showerhead to move; (4) apply a pulling force using a combined 8 lbm (total combined weight includes clamp, connecting linkage, and hanging mass) secured to the clamp and lowered beneath the showerhead until the mass freely hangs such that a downward 8 lbf is exerted on the flow control insert; and (5) continue to apply the 8 lbf to the flow control insert for a minimum of 60 seconds. The showerhead would be compliant with the design requirement if, after this period has elapsed, the flow control insert is completely retained in the showerhead housing with no movement. In this SNOPR, DOE proposes the use of this test method as a means to validate that showerheads meet the flow control insert design requirement for situations in which compliance with the requirement is in dispute. However, DOE is not proposing to mandate that this test method be conducted by manufacturers as part of an initial certification that a basic model of showerhead is in compliance with this requirement.

DOE requests comments on the proposed test method for verifying the retention requirement for the showerhead flow control insert, specifically related to the practicality of the test method and any potential impacts on showerhead design.

3. Test Procedure Amendment for Supply Fittings With Integral Body Sprays

In light of DOE's proposal to exclude body sprays from the definition of ''showerhead,'' DOE also proposes to revise the showerhead test procedure located at Appendix S to subpart B of part 430 to include instructions for testing a single fitting that consists of at least one showerhead and at least one integral body spray (colloquially called a ''shower tower''). ASME A112.18.1, section 5.4.2.1 (part of section 5.4, Flow

[3] Four showerheads with plastic inserts were manufactured with the insert embedded very in tightly in the housing, making removal difficult enough that DOE deemed the test unnecessary for those products; six showerheads with integral flow control in the fixture housing were not tested; the showerhead with a sealing gasket as the flow control was not tested because it is exempt from the design requirement.

Rate, which DOE proposed to incorporate by reference in the NOPR), provides that a ''specimen'' to be tested shall ''have its standard accessories installed, when tested for compliance with the maximum flow rates.'' Because DOE is not proposing to include body sprays in the definition of ''showerhead,'' DOE proposes to clarify in Appendix S that the body spray portion of a ''shower tower'' should be turned off during testing. DOE also proposes to clarify in Appendix S that where the text of Appendix S conflicts with section 5.4, the text of Appendix S controls.

4. Test Procedure Amendments for Gravity Flush Tank Water Closet Trim Adjustments

In written comments submitted to DOE and in oral comments made during the public meeting, NRDC urged DOE to consider requiring manufacturers to adjust the tank trim components to the maximum flush volume setting during testing. (NRDC, Public Meeting Transcript, No. 11 at pp. 70–71; NRDC, No. 14 at p. 3) In this context, tank trim refers to the components in the tank that can be adjusted by the consumer such as the water level, fill valve timing, and related components. While DOE's current test procedure does not address this issue, ASME A112.19.2–2008, section 7.1.2, specifies that for gravity flush tank water closets, water level in the tank and fill time shall be adjusted in accordance with the manufacturer's instructions and specifications at each test pressure. Table 5 in ASME A112.19.2–2008 specifies that ''[a]djustments to tank trim components shall be permitted only when changes to test pressures are indicated'' and that ''[n]o adjustments shall be allowed between tests employing like pressures.'' These provisions ensure that once the trim is set to the manufacturer's specifications, the water level and fill time adjustments remain the same for tests that use like pressures, which simulates how water closets are used in real world application.

After receiving comments from NRDC, DOE investigated water closet manufacturers' instructions on gravity flush tank trim adjustments. Based upon a review of installation instructions for representative models from eight separate manufacturers, DOE found that only one manufacturer did not include specific instructions regarding the adjustments made to the tank water level. Based on these findings, DOE believes it to be likely that the majority of manufacturers' installation instruction manuals for gravity flush tank water closets specify the tank water level and also provide directions on adjusting the tank's water level. However, DOE found that few manufacturers provide information on the recommended adjustment of other trim components, such as the flapper valve or fill valve. Section 7.1.2 of ASME A112.19.2–2008 only specifies adjustments made to the tank water level and fill time and does not specify adjustments made to other trim components such as the flapper valve. Taking into account the variety of water closet designs on the market, it is unclear whether the impact on flush volume of trim adjustments that are not specified in manufacturer's instructions or in ASME A112.19.2–2008 is significant.

Based on these findings, DOE proposes in this SNOPR to amend the test procedures for gravity flush tank toilets to require that, at each test pressure specified in Table 5 of ASME A112.19.2–2008, trim components of gravity flush tank water closets that can be adjusted to cause an increase in flush volume, including (but not limited to) the flapper valve, fill valve, and float, would be set in accordance with the printed installation instructions supplied by the manufacturer. For products with instructions that do not specify trim setting adjustments, DOE would require that these trim components be adjusted to the maximum water use setting so that the maximum flush volume is produced without causing the water closet to malfunction or leak. In this context, DOE interprets ''malfunction or leak'' to mean that the product is otherwise unable to meet the requirements of the ASME A112.19.2 standard for basic functionality. In addition, the water level in the tank would be set to the maximum level indicated in the printed installation instructions supplied by the manufacturer or the water line indicated on the tank itself, whichever is higher. If the product's installation instructions or the water closet tank do not indicate a water level, DOE would require that the water level be adjusted to 1 ± 0.1 inches below the top of the overflow tube or 1 ± 0.1 inches below the top rim of the water-containing vessel (for gravity flush tank water closets that do not contain an overflow tube) for each designated pressure specified in Table 5 of ASME A112.19.2–2008.

DOE requests comments on the proposed amendment to the gravity flush tank water closest test procedures, specifically with respect to the potential effects on flush volume of tank trim adjustments, any impact on water closet design that may occur due to the proposed amendments, including its interpretation of the term ''malfunction or leak.''

5. Static Test Pressure for Flushometer Valve Siphonic and Blowout Water Closets

In written comments submitted to DOE, NRDC and the Appliance Standards Awareness Project (ASAP) recommended that DOE evaluate the effect of averaging test results that have been obtained at different test pressures of siphonic flushometer style water closets, which is the general method used in both the ASME A112.19.6–1995 standard referenced in the DOE test procedure for water closets and in the newer ASME A112.19.2–2008 procedure. (NRDC/ASAP, No. 14 at p. 2) NRDC/ASAP further suggested that DOE should require reporting of the higher water consumption value obtained by averaging three tests at 80 psi and averaging three tests at 35 psi for siphonic flushometer water closets and, at a minimum, should discard the 2 to 1 weighting of test results at the lower pressure. (NRDC/ASAP, No. 14 at p. 2) Although not specifically mentioned by NRDC and ASAP in their comments, DOE also requires an additional low pressure test at 45 psi for blowout flushometer water closets that results in a 2 to 1 weighting of results.

DOE agrees that use of the 2 to 1 ratio for averaging water consumption of flushometer valve siphonic and blowout water closets at the pressures currently indicated in Table 5 of ASME A112.19.2–2008 potentially could lead to results that are not representative across a range of pressures if DOE were to incorporate by reference this test method. Further, DOE notes that the weighting of two low pressure tests to one high pressure test presented in Table 5 of ASME A112.19.2–2008 diverges from previous versions of the ASME test method because tank type water closets are tested at three distinct static pressures, as were flushometer water closets in the previous version of the standard. For these reasons, DOE proposes to amend 10 CFR part 430, appendix T, ''Test Measurement,'' to require that water consumption tests be conducted at two static pressures, with three tests at each pressure (*i.e.,* six total tests, rather than nine). For flushometer valve water closets with a siphonic bowl, DOE proposes that the test pressures be 80 psi and 35 psi. For flushometer valve water closets with a blowout bowl, DOE proposes that the test pressures be 80 psi and 45 psi. According to this proposal, the test shall be run three times at each pressure as

specified in section 7.4.3, ''Procedure,'' of ASME Standard A112.19.2–2008.

DOE requests comments on the proposal to amend the number of required tests for flushometer valve siphonic and blowout bowl water closets to require three tests at each of two pressures rather than three tests at each of three pressures.

6. Testing and Reporting of Dual-Flush Water Closets

In the May 2012 NOPR, DOE proposed a test method to account for the reduced average water use of dual-flush water closets, which are capable of being flushed in either a full volume flush mode or in a reduced volume mode. Under the proposed test procedure, the flush volume of the reduced flush would be measured using section 7.4 of ASME A112.19.2–2008 in the same manner as the full flush, and the average representative water use would be calculated using the composite average of two reduced flushes and one full flush. 77 FR at 31746. This proposed method was based upon the test method used by the Environmental Protection Agency (EPA) WaterSense program [4] for measuring the flush volume of dual-flush water closets and used a weighted average of the full and reduced flush volumes. However, DOE did not propose to make this test method the required means for testing dual-flush water closets for the purposes of certification in 10 CFR part 429. Rather, the intent in including this test method was to provide manufacturers with a potential means to evaluate the representative water use of these products under conditions of expected consumer use for the purposes of labeling and other representations. The test method required for certification would remain the standard full-flush volume test for products that do not have a dual-flush capability.

DOE received several comments in response to the NOPR that opposed incorporation of the proposed test method for dual-flush products. Alliance for Water Efficiency (AWE), Kohler, Moen, and Sloan Valve commented that because of DOE's statutory authority, which addresses only the maximum water use of water closets, dual-flush water closets should only be tested in full-flush mode in accordance with ASME A112.19.2. (AWE, No. 13 at p.2; Kohler, No. 9 at pp. 2–3; Moen, No. 4, p. 2; Sloan Valve, No. 12, p. 2). Also, AWE, ICC, Kohler, Maximum Performance Testing (MaP), Moen, NRDC, and Sloan Valve stated that the weighted average approach was unproven and that the particular ratio required further evaluation to confirm its representativeness. (AWE, No. 13 at p. 2; ICC, Public Meeting Transcript No. 11 at pp. 36–37; Kohler, No. 9 at pp. 2–3; MaP, No. 10 at pp. 3–4; Moen, No. 4 p. 2; NRDC, No. 14 at pp. 3–4; Sloan Valve, Public Meeting Transcript, No. 11 at pp. 38–39) In addition, Kohler, Moen, and Sloan Valve stated that confusion in the marketplace might result if DOE were to issue a method different from the WaterSense method to determine the representative average flush volume for dual-flush water closets. (Kohler, No. 9 at pp. 2–3; Moen, No. 4 at p. 2; Sloan Valve, No. 12 at p. 2)

In response to these comments, DOE proposes in today's notice not to include a dual-flush test method in appendix T of subpart B of 10 CFR part 430 and instead to indicate specifically in section 429.30 of 10 CFR part 429 that the flush volume to be reported to DOE in certifications of compliance for water closets is the full-flush volume. DOE will continue to evaluate the merits of a weighted average approach to measuring the representative water use of dual-flush products and may consider proposing a revised test method in a future rulemaking. DOE notes that 42 U.S.C. 6293(c) prohibits making representations with respect to the water use of a covered product unless such product has been tested in accordance with the DOE test procedure and the representation fairly discloses the results of such testing.

B. Supplementary Plumbing Requirements

1. Definition of a Basic Model for Water Closets and Urinals

In the May 2012 NOPR, DOE proposed to retain the existing definition of a basic model as it applies to water closets and urinals, but emphasized that the manner in which individual models may be grouped together as basic models for purposes of reporting water consumption in accordance with 10 CFR 429.12 should be based on the maximum volume for a given bowl (or urinal body) and the valve with which it is designed to operate. 77 FR at 31748 (May 30, 2012). In other words, by certifying a given pairing of water closet bowl and valve (or tank) or urinal body and valve as a basic model under the existing certification and compliance framework, the manufacturer would be certifying that the pairing on which that basic model's rating is based is the maximum flush volume that model of water closet or urinal body is designed to receive, and that it could not be paired with a flushing device or tank that would provide a higher flush volume and still function properly.

During the July 2012 public meeting, NRDC commented that it remained unclear how DOE expects the valve/bowl pairing combination to work in practice. NRDC pointed to DOE's own NOPR language indicating that different valve and china combinations could result in different flush volumes. (NRDC, Public Meeting Transcript, No. 11 at pp. 60–61) In follow-up written comments submitted jointly, NRDC and ASAP stated that DOE's explanation of the compliance certification in the NOPR failed to clarify how a fixture manufacturer can establish that its bowl cannot be paired with a flushing device that would provide a higher flush volume and still function properly. (NRDC/ASAP, No. 14 at p. 6) NRDC stated that because DOE is aware of the variability of flush volume based on the valve/bowl combination, it must find a way to verify that products shipped in commerce can reliably meet the standard. Finally, NRDC and ASAP suggested that DOE should consider expanding the definition of ''tested combination'' in 10 CFR 430.2 to include information specific to water closets and urinals, along with their associated flushing devices. (NRDC/ASAP, No. 14 at p. 6) During the public meeting, NRDC and ASAP also inquired whether new valves shipped in commerce that are not paired with a bowl are covered products by DOE and require certification. (NRDC, Public Meeting Transcript, No. 11 at p. 62; ASAP, Public Meeting Transcript, No. 11 at p. 64).

Based on these comments, DOE further investigated the issues revolving around the basic model definition and certification of water closets and urinals. First, the definitions of a water closet and urinal per ASME A112.19.2 and 10 CFR 430.2 state that these products are receiving vessels that, upon actuation, convey waste through a trap to a drainage system. The flushing device, such as a flushometer valve, is not considered a water closet or urinal, and therefore is not itself a covered product under DOE's regulations. The water closet bowl or urinal body, which is covered by DOE regulations, is designed to receive a specified volume of water per flush provided by the flushometer valve. Under the current

[4] WaterSense is a voluntary partnership program administered by the EPA which, among other activities, promotes water conservation by providing certification and labeling for water consuming products, including water closets, that meet certain water conservation standards. Further information is available at *http://www.epa.gov/WaterSense/index.html*.

general certification requirements in 10 CFR 429.12 and product-specific sampling and reporting requirements in 10 CFR 429.30 (429.31 for urinals), manufacturers of flushometer water closets (and urinals) must only certify the water closet bowl (or urinal body) based on data obtained from testing using the DOE test procedure, and are not required to report information on the flushometer valve that was paired with the fixtures during testing. However, a water closet bowl (or urinal) must be paired with a flushometer valve device to function properly. Without the valve, the water closet could not be actuated and could not convey waste into the drainage system, thus preventing it from meeting the DOE definition of a water closet. In addition, water closet bowls and urinals are designed for a specified flush volume, and thus must be paired with a valve that is designed to provide this specific volume.

As a result of the comment made by NRDC, DOE re-examined ASME A112.19.2–2008 and determined that a provision related to the test setup for flushometer valves in section 7.1.5, which DOE had not proposed for incorporation by reference in the May 2012 NOPR, partially addresses this issue. This section describes the steps to standardize the water supply system for testing water closets. Section 7.1.5.2, which covers standardization for flushometer water closets, clearly states that a flushometer valve must be connected to the test bowl and specifies that while conducting the water consumption test, the valve is required to maintain a peak flow rate. Incorporating this provision will ensure that a water closet is paired with a flushometer valve that produces the required maximum flush volume during the water consumption test. Therefore, to clarify the definition of basic model for flushometer water closets, DOE proposes to incorporate by reference section 7.1.5 of ASME A112.19.2–2008.

Similar steps for standardizing the water supply for flushometer urinals are contained in section 8.2 of ASME A112.19.2–2008. DOE proposed to incorporate by reference this section of the ASME standard in the May 2012 NOPR, and did not receive any comments opposing the proposal. 77 FR at 31745 (May 30, 2012).

Further, DOE proposes changes to the certification requirements in 10 CFR 429.30(b)(2) for water closets and 10 CFR 429.31(b)(2) for urinals to require manufacturers to identify in their certification reports the flushometer valve that was used during the water consumption test. According to this proposal, the flushometer valve identified in the certification report must represent the flush volume of any other valve with the same flush volume rating. Manufacturers who wish to advertise flush volume ratings of high-efficiency flushometer water closets and urinals would be able to do so as long as the rating is based upon a pairing of the model with a valve with which it is designed to operate, the product pairing has been tested in accordance with test methods in ASME A112.19.2–2008, and the certification reports properly identify the flushometer valve used during the water consumption test.

DOE requests comments on this interpretation of the definition of a basic model of water closet and urinal and the associated proposed amendments to the certification requirements.

2. Minor Editorial Changes

In reviewing the certification requirements applicable to the products addressed in this proposed rule, DOE noted that the current reporting requirement for urinals in 10 CFR 429.31(b)(2) requires reporting of water consumption for trough-type urinals in gpm. Since the Federal water consumption standard for urinals in 10 CFR 430.32(r), including trough-type urinals, is expressed in units of gallons per flush (gpf), DOE believes that the appropriate units of measure for reporting water consumption of trough-type urinals also should be gallons per flush. Accordingly, DOE is proposing in this notice to amend the existing language of 10 CFR 429.31(b)(2) to reflect that the water consumption of trough-type urinals should be reported in gallons per flush.

DOE also noted that the amendments to the certification requirements for showerheads proposed in the May 2012 NOPR did not reflect the proposed change to the language of 10 CFR 430.32(p). The proposed language there no longer references an ASME standard. Instead, it explains the design requirement. Therefore, the certification requirements for showerheads in 10 CFR 429.29 should no longer reference any ASME standard, but should instead reference the requirements laid out in 430.32(p). Accordingly, DOE is proposing to reference 430.32(p) in its certification requirements for showerheads. In addition, because the declaration that a showerhead meets the relevant design requirement is public information, DOE proposes to move this certification requirement into 429.29(b)(2) rather than retaining it in a separate section, 429.29(b)(3).

III. Procedural Issues and Regulatory Review

The regulatory reviews for this proposed rule are identical to those conducted for the May 2012 NOPR. Please see the May 2012 NOPR for additional details. 77 FR at 31749–31752 (May 30, 2012). With respect to review under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), DOE is proposing a test method to validate that the showerhead flow control insert design requirement has been satisfied; however, the use of the test during certification is optional. Because manufacturers are not required to perform the proposed test to meet DOE's certification requirements, DOE does not expect any additional testing burden or cost. Thus, DOE continues to tentatively conclude and certify that the proposed rule would not have a significant economic impact on a substantial number of small entities. Accordingly, DOE will transmit the certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

IV. Public Participation

A. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section of this proposed rule. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section of this proposed rule.

Submitting comments via regulations.gov. The regulations.gov Web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment or in any document attached to your comment. Persons viewing comments will see only

first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through regulations.gov cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the ''Confidential Business Information'' section.

DOE processes submissions made through regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, are written in English, and are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: one copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination. 10 CFR 1004.11(e).

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

B. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

1. DOE requests comments on the proposed definitions of showerhead and hand-held showerhead, its proposal to remove body sprays from the proposed showerhead definition, its proposal that body sprays that are components of shower towers be disabled during testing, and on the need for a definition of safety shower showerhead.

2. DOE requests comments on the proposed test method for verifying the retention requirement for the showerhead flow control insert, specifically related to the practicality of the test method and any potential impacts on showerhead design.

3. DOE requests comments on the proposed amendment to the gravity flush tank water closet test procedure, specifically related to potential effects on flush volume of tank trim adjustments and any impact on water closet design resulting from the proposed amendments, including DOE's interpretation of the term ''malfunction or leak.''

4. DOE requests comments on the proposal to amend the number of required tests for flushometer valve siphonic and blowout bowl water closets to require three tests at each of two pressures rather than three tests at each of three pressures.

5. DOE requests comments on its interpretation of the definition of a basic model of water closet and urinal and the associated proposed amendments to the certification requirements.

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Imports, Intergovernmental relations, Small businesses.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on April 2, 2013.

Kathleen B. Hogan,

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

For the reasons stated in the preamble, DOE proposes to amend parts 429 and 430 of chapter II of title 10 of the Code of Federal Regulations, as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Section 429.29 is amended by revising paragraph (b)(2) and removing paragraph (b)(3) to read as follows:

§ 429.29 Showerheads.

* * * * *

(b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information: The maximum water use in gallons per minute (gpm) rounded to the nearest 0.1 gpm, the maximum flow water pressure in pounds per square inch (psi), whether the showerhead is exempt from the requirements of § 430.32(p) pertaining to mechanical retention of the flow-restricting insert, and a declaration that the showerhead meets the requirements of § 430.32(p) pertaining to mechanical retention of the flow-restricting insert, if applicable.

■ 3. Section 429.30 is amended by revising paragraph (b)(2) to read as follows:

§ 429.30 Water closets.

* * * * *

(b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information: The maximum water use in gallons per flush (gpf), rounded to the nearest 0.01 gallon. For flushometer water closets, the brand name and individual model number of the flushometer valve used during certification testing shall be included in the certification report. For dual-flush water closets, the maximum water use to be reported is the flush volume observed when tested in the full-flush mode.

■ 4. Section 429.31 is amended by revising paragraph (b)(2) to read as follows:

§ 429.31 Urinals.

* * * * *

(b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information: The maximum water use in gallons per flush (gpf), rounded to the nearest 0.01 gallon; and, for trough-type urinals, the maximum water use in gallons per flush (gpf), rounded to the nearest 0.01 gallon, and the length of the trough in inches (in). For flushometer urinals, the brand name and individual model number of the flushometer valve used during certification testing shall be included in the certification report.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 5. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 6. Section 430.2 is amended by adding, in alphabetical order, a definition for ''hand-held showerhead'' and by revising the definition of ''showerhead'' to read as follows:

§ 430.2 Definitions.

* * * * *

Hand-held showerhead means a showerhead that can be hand-held or fixed in place for the purpose of spraying water onto a bather.

* * * * *

Showerhead means a component of a supply fitting, or set of components distributed in commerce for attachment to a single supply fitting, for spraying water onto a bather, typically from an overhead position, including hand-held showerheads, but excluding safety shower showerheads.

* * * * *

■ 7. Appendix S to subpart B of part 430 is amended by adding a note after the heading, revising section 2.b, and adding section 3, to read as follows:

Appendix S to Subpart B of Part 430—Uniform Test Method for Measuring the Water Consumption of Faucets and Showerheads

Note: Any representation related to water consumption of showerheads or faucets made after [insert date 180 days after date of publication of faucets and showerheads test procedure final rule] must be made based upon results generated using this test procedure. Any representation related to water consumption of showerheads or faucets made between [insert date 30 days after date of publication of faucets and showerheads test procedure final rule] and [insert date 180 days after date of publication of faucets and showerheads test procedure final rule] must be based upon results generated either under this test procedure or upon the test procedure as it appeared at 10 CFR part 430, subpart B, appendix S, in the 10 CFR parts 200 to 499 edition revised as of January 1, 2012.

* * * * *

2. * * *

* * * * *

b. Showerheads—The test procedures to measure the water flow rate for showerheads, expressed in gallons per minute (gpm) or liters per minute (L/min), shall be conducted in accordance with the test requirements specified in section 5.4, Flow Rate, of the ASME/ANSI Standard A112.18.1 (incorporated by reference, see § 430.3). Measurements shall be recorded at the resolution of the test instrumentation. Calculations shall be rounded off to the same number of significant digits as the previous step. The final water consumption value of each tested unit shall be rounded to one decimal place. For showerheads or showerhead assemblies that are a component of a single supply fitting with integral body sprays, the body spray(s) shall be disabled for the test.

3. *Showerhead Flow Control Insert Test.*

The following test method is for verification of compliance with the requirements of 10 CFR 430.32(p) pertaining to retention of showerhead flow control inserts. This test is not required for certification under 10 CFR 429.12 but may be used to verify compliance with those requirements.

(a) General provisions:

(1) If removal of the flow control insert would cause significant leakage between the showerhead and the supply fitting, the showerhead is exempt from the flow control insert design requirement.

(2) If the means of controlling flow rate is not physically removable, the showerhead is exempt from the flow control insert design requirement.

(b) Test method:

If items in section (3)(a) of this appendix do not apply, perform the following steps:

(1) Remove the showerhead's sealing gasket, which provides a seal between the showerhead and supply fitting, and the screen upstream of the flow control insert (if present).

(2) Attach a clamp (or other grasping device) to the flow control insert such that a force of at least 8 lbf can be applied without separating the clamp (or other grasping device) from the flow control insert.

(3) Secure the showerhead such that the visible face of the flow control insert is directly downward and a force of at least 8 lbf will not cause the showerhead to move.

(4) Apply a pulling force using a combined 8 pound-mass (lbm) (± 0.4 lbm) (total combined weight including clamp, connecting linkage, and hanging mass) secured to the clamp and lowered beneath the showerhead at a rate of no more than 1 inch per second until the mass freely hangs such that a downward 8 lbf is exerted on the flow control insert.

(5) Continue to apply the 8 lbf to the flow control insert for a minimum of 60 seconds.

(c) Determination:

If the flow control insert is retained in the showerhead after performing sections (3)(b)(1) through (5) of this appendix, the showerhead complies with the design requirement.

■ 8. Appendix T to subpart B of part 430 is amended by adding a note after the heading and revising sections 2 and 3, to read as follows:

Appendix T to Subpart B of Part 430—Uniform Test Method for Measuring the Water Consumption of Water Closets and Urinals

Note: Any representation related to water consumption of water closets or urinals made

after [insert date 180 days after date of publication of faucets and showerheads test procedure final rule] must be made based upon results generated using this test procedure. Any representation related to water consumption of water closets or urinals made between [insert date 30 days after date of publication of water closets and urinals test procedure final rule] and [insert date 180 days after date of publication of water closets and urinals test procedure final rule] must be based upon results generated either under this test procedure or upon the test procedure as it appeared at 10 CFR part 430, subpart B, appendix T, as contained in the 10 CFR parts 200 to 499 edition revised as of January 1, 2012.

* * * * *

2. *Test Apparatus and General Instructions*

a. The test apparatus and instructions for testing water closets shall conform to the requirements specified in section 7.1, ''General,'' in sections 7.1.1, 7.1.2, 7.1.3, 7.1.4, and 7.1.5 of ASME A112.19.2 (incorporated by reference, see § 430.3). Measurements shall be recorded at the resolution of the test instrumentation. Calculations of water consumption for each tested unit shall be rounded off to the same number of significant digits as the previous step.

b. The test apparatus and instructions for testing urinals shall conform to the requirements specified in section 8.2, ''Test Apparatus and General Instructions,'' of ASME A112.19.2–2008 (incorporated by reference, see § 430.3). Measurements shall be recorded at the resolution of the test instrumentation. Calculations of water consumption for each tested unit shall be rounded off to the same number of significant digits as the previous step.

3. *Test Measurement*

a. Water closets:

(i) Measurement of water flush volume: The measurement of the water flush volume for water closets, expressed in gallons per flush (gpf) or liters per flush (Lpf), shall be conducted in accordance with the test requirements specified in section 7.4, ''Water Consumption Test,'' of ASME A112.19.2 (incorporated by reference, see § 430.3).

(ii) Static pressure requirements: The water consumption tests of siphonic and blowout water closets shall be conducted at two static pressures. For flushometer valve water closets with a siphonic bowl, the test pressures shall be 80 psi and 35 psi. For flushometer valve water closets with a blowout bowl, the test pressures shall be 80 psi and 45 psi. The test shall be run three times at each pressure as specified in section 7.4.3, ''Procedure,'' of ASME A112.19.2 (incorporated by reference, see § 430.3).

(iii) Flush volume and tank trim component adjustments: For gravity flush tank water closets, trim components that can be adjusted to cause an increase in flush volume, including (but not limited to) the flapper valve, fill valve, and float, shall be set in accordance with the printed installation instructions supplied by the manufacturer. If the installation instructions for the model to be tested do not specify trim setting adjustments, these trim components shall be adjusted to the maximum water use setting so that the maximum flush volume is produced without causing the water closet to malfunction or leak. The water level in the tank shall be set to the maximum water line designated in the printed installation instructions supplied by the manufacturer or the designated water line on the tank itself, whichever is higher. If the printed installation instructions or the water closet tank do not indicate a water level, the water level shall be adjusted to 1 ± 0.1 inches below the top of the overflow tube or 1 ± 0.1 inches below the top rim of the water containing vessel (for gravity flush tank water closets that do not contain an overflow tube) for each designated pressure specified in Table 5 of ASME A112.19.2 (incorporated by reference, see § 430.3).

[FR Doc. 2013–08073 Filed 4–5–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket Number EERE–2013–BT–STD–0020]

RIN 1904–AC98

Energy Conservation Program: Energy Conservation Standards for Residential Clothes Dryers and Room Air Conditioners

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would correct the energy conservation standards for room air conditioners. In the direct final rule establishing amended energy conservation standards for residential clothes dryers and room air conditioners, published in the **Federal Register** on April 21, 2011, and the subsequent notices of effective date and compliance dates for the direct final rule and amendment of compliance dates, published on August 24, 2011, the Department of Energy (DOE) erroneously specified the maximum cooling capacity for product class 5a for room air conditioners without reverse cycle and with louvered sides as 24,999 British thermal units per hour (Btu/h), and the minimum cooling capacity for product class 5b for room air conditioners without reverse cycle and with louvered sides as 25,000 Btu/h, rather than 27,999 Btu/h and 28,000 Btu/h, respectively.

DATES: DOE will accept comments, data, and information regarding the proposed standards no later than May 8, 2013.

ADDRESSES: Any comments submitted must identify the proposed rule for Energy Conservation Standards for Residential Clothes Dryers and Room Air Conditioners, and provide docket number EERE–2013–BT–STD–0020 and/or regulatory information number (RIN) number 1904–AC98. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: DFRCorrRCDRAC@ee.doe.gov.* Include the docket number and/or RIN in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a CD. It is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD. It is not necessary to include printed copies.

Docket: The docket for this rulemaking is available for review at *www.regulations.gov/#!docketDetail;D=EERE-2013-BT-STD-0020.* The docket for the direct final rule establishing the standards for room air conditioners is also available for review at regulations.gov, including **Federal Register** notices, framework documents, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the regulations.gov index. Not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

For further information on how to submit or review public comments, contact Ms. Brenda Edwards at (202) 586–2945 or email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT:

Stephen L. Witkowski, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–7463. Email: *Stephen.Witkowski@ee.doe.gov.*

Elizabeth Kohl, Esq., U.S. Department of Energy, Office of General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–7796. Email: *Elizabeth.Kohl@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE published a direct final rule to establish amended energy conservation standards for residential clothes dryers and room air conditioners on April 21, 2011. 76 FR 22454.

EPCA (42 U.S.C. 6291 *et seq.*), as amended, grants DOE authority to issue a final rule (hereinafter referred to as a ''direct final rule'') establishing an energy conservation standard on receipt of a statement submitted jointly by interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of covered products, States, and efficiency advocates) as determined by the Secretary, that contains recommendations with respect to an energy conservation standard that are in accordance with the provisions of 42 U.S.C. 6295(o). EPCA also requires a NOPR that proposes an identical energy conservation standard to be published simultaneously with the final rule. A public comment period of at least 110 days must be provided. 42 U.S.C. 6295(p)(4). Not later than 120 days after issuance of the direct final rule, if one or more adverse comments or an alternative joint recommendation are received relating to the direct final rule, the Secretary must determine whether the comments or alternative recommendation may provide a reasonable basis for withdrawal under 42 U.S.C. 6295(o) or other applicable law. If the Secretary makes such a determination, DOE must withdraw the direct final rule and proceed with the simultaneously published notice of proposed rulemaking. DOE must publish in the **Federal Register** the reason why the direct final rule was withdrawn. *Id.*

During the rulemaking proceeding to develop amended standards for residential clothes dryers and room air conditioners, DOE received the ''Agreement on Minimum Federal Efficiency Standards, Smart Appliances, Federal Incentives and Related Matters for Specified Appliances'' (the ''Joint Petition''), a comment submitted by groups representing manufacturers (the Association of Home Appliance Manufacturers (AHAM), Whirlpool Corporation (Whirlpool), General Electric Company (GE), Electrolux, LG Electronics, Inc. (LG), BSH Home Appliances (BSH), Alliance Laundry Systems (ALS), Viking Range, Sub-Zero Wolf, Friedrich A/C, U-Line, Samsung, Sharp Electronics, Miele, Heat Controller, AGA Marvel, Brown Stove, Haier, Fagor America, Airwell Group, Arcelik, Fisher & Paykel, Scotsman Ice, Indesit, Kuppersbusch, Kelon, and DeLonghi); energy and environmental advocates (American Council for an Energy Efficient Economy (ACEEE), Appliance Standards Awareness Project (ASAP), Natural Resources Defense Council (NRDC), Alliance to Save Energy (ASE), Alliance for Water Efficiency (AWE), Northwest Power and Conservation Council (NPCC), and Northeast Energy Efficiency Partnerships (NEEP)); and consumer groups (Consumer Federation of America (CFA) and the National Consumer Law Center (NCLC)) (collectively, the ''Joint Petitioners''). This collective set of comments, which DOE refers to in this notice as the ''Joint Petition'' [1] or ''Consensus Agreement'' recommended specific energy conservation standards for residential clothes dryers and room air conditioners that, in the commenters' view, satisfied the EPCA requirements in 42 U.S.C. 6295(o). The Joint Petition also set forth compliance dates for these recommended standards of June 1, 2014 (room air conditioners) and January 1, 2015 (clothes dryers).

As discussed in the direct final rule, DOE determined that the relevant criteria under 42 U.S.C. 6295(p)(4) were satisfied and adopted the amended energy conservation standards for clothes dryers and room air conditioners through the direct final rule. 76 FR 22454 (April 21, 2011). After considering comments received, DOE subsequently published a document in the **Federal Register** confirming adoption of the standards set forth in the direct final rule and announcing the effective date of the direct final rule. 76 FR 52856 (Aug. 24, 2011).

In today's rule, DOE proposes to correct certain room air conditioner product class definitions that were inadvertently different than those that were provided in the Joint Petition and which were the basis of DOE's analysis for the previous final rules. Specifically, DOE proposes to correct the product class definitions for room air conditioners without reverse cycle and with louvered sides as follows:

Product class	Definition
5a	Without reverse cycle, with louvered sides, and 20,000 to 27,999 Btu/h.
5b	Without reverse cycle, with louvered sides, and 28,000 Btu/h or more.

[1] DOE Docket No. EERE–2007–BT–STD–0010, Comment 35.

Procedural Issues and Regulatory Review

The regulatory reviews conducted for this rulemaking are identical to those set forth in the DOE's direct final rule published on April 21, 2011 establishing amended energy conservation standards. The amendments in the direct final rule become effective June 1, 2014.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, and Small businesses.

Issued in Washington, DC, on April 2, 2013.

Kathleen B. Hogan,

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

For the reasons stated in the preamble, DOE is proposing to amend part 430 of title 10 of the Code of Federal Regulations, as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Section 430.32 is amended by revising paragraph (b) to read as follows:

§ 430.32 Energy and water conservation standards and their effective dates.

* * * * *

(b) *Room air conditioners.*

Product class	Energy efficiency ratio, effective from Oct. 1, 2000 to May 31, 2014	Combined energy efficiency ratio, effective as of June 1, 2014
1. Without reverse cycle, with louvered sides, and less than 6,000 Btu/h	9.7	11.0
2. Without reverse cycle, with louvered sides, and 6,000 to 7,999 Btu/h	9.7	11.0
3. Without reverse cycle, with louvered sides, and 8,000 to 13,999 Btu/h	9.8	10.9
4. Without reverse cycle, with louvered sides, and 14,000 to 19,999 Btu/h	9.7	10.7
5a. Without reverse cycle, with louvered sides, and 20,000 to 27,999 Btu/h	8.5	9.4
5b. Without reverse cycle, with louvered sides, and 28,000 Btu/h or more		9.0
6. Without reverse cycle, without louvered sides, and less than 6,000 Btu/h	9.0	10.0
7. Without reverse cycle, without louvered sides, and 6,000 to 7,999 Btu/h	9.0	10.0
8a. Without reverse cycle, without louvered sides, and 8,000 to 10,999 Btu/h	8.5	9.6
8b. Without reverse cycle, without louvered sides, and 11,000 to 13,999 Btu/h		9.5
9. Without reverse cycle, without louvered sides, and 14,000 to 19,999 Btu/h	8.5	9.3
10. Without reverse cycle, without louvered sides, and 20,000 Btu/h or more	8.5	9.4
11. With reverse cycle, with louvered sides, and less than 20,000 Btu/h	9.0	9.8
12. With reverse cycle, without louvered sides, and less than 14,000 Btu/h	8.5	9.3
13. With reverse cycle, with louvered sides, and 20,000 Btu/h or more	8.5	9.3
14. With reverse cycle, without louvered sides, and 14,000 Btu/h or more	8.0	8.7
15. Casement-Only	8.7	9.5
16. Casement-Slider	9.5	10.4

* * * * *

[FR Doc. 2013–08074 Filed 4–5–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0216; Directorate Identifier 2012–NM–206–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, 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 Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. This proposed AD was prompted by a determination that certain flap actuators require restoration by installing a redesigned flap actuator inboard pinion seal. This proposed AD would require revising the maintenance program by incorporating new airworthiness limitation tasks. We are proposing this AD to prevent flap system failure, and consequent reduced landing performance of the airplane.

DATES: We must receive comments on this proposed AD by May 23, 2013.

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

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

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Luke Walker, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7363; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0216; Directorate Identifier 2012–NM–206–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2012–26, dated October 30, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> The CL–600–2B19 aeroplane flap actuator inboard pinion seal is prone to leak which can cause internal contamination of the actuator braking mechanism and subsequent actuator failure. This condition, if not corrected, can cause flap system failure. In certain weather and runway conditions, frequent flap system failures pose a safety concern.
>
> To improve the internal actuator sealing, the flap actuator manufacturer has redesigned the inboard pinion seal. Transport Canada Civil Aviation (TCCA) has been monitoring, through an actuator sampling program, the performance of the flap system since the introduction of actuators equipped with this new inboard pinion seal. Based on this sampling program and recent flap reliability data, TCCA is mandating a restoration task to install the redesigned flap actuator inboard pinion seal on all applicable actuators.

The required action is revising the maintenance program by incorporating two new airworthiness limitation tasks. The unsafe condition is flap system failure, and consequent reduced control of the airplane. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Bombardier Inc. has issued CL–600–2B19 Temporary Revision (TR) 2A–48, dated July 6, 2012, to Appendix A—Certification Requirements, of Part 2, Airworthiness Requirements, of the Bombardier CL–600–2B19 Maintenance Requirements Manual. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

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

Differences Between This Proposed AD and the MCAI or Service Information

Bombardier CL–600–2B19 TR 2A–48, dated July 6, 2012, to Appendix A—Certification Requirements, of Part 2, Airworthiness Requirements, of the Bombardier CL–600–219 Maintenance Requirements Manual, specifies a task interval of 10,000 flight cycles or 144 months in the ''Task Interval'' column, and a task interval of 10,000 flight cycles in the ''Task Description'' column. This proposed AD would require a task interval of 10,000 flight cycles. This difference has been coordinated with TCCA.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 573 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $48,705, or $85 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2013–0216; Directorate Identifier 2012–NM–206–AD.

(a) Comments Due Date

We must receive comments by May 23, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440)

airplanes, certificated in any category, equipped with Eaton flap actuators having any part number (P/N) specified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD.

(1) P/N 601R93101–23/–25 (vendor P/N 852D100–23, –25).

(2) P/N 601R93103–23/–24 (vendor P/N 853D100–23, –24).

(3) P/N 601R93104–23/–24 (vendor P/N 854D100–23, –24).

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Reason

This AD was prompted by a determination that certain flap actuators require restoration by installing a redesigned flap actuator inboard pinion seal. We are issuing this AD to prevent flap system failure, and consequent reduced control of the airplane.

(f) Compliance

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

(g) Maintenance Program Revision

Within 30 days after the effective date of this AD, revise the maintenance program to incorporate Tasks C27–50–111–15 and C27–50–111–17 as specified in Bombardier CL–600–2B19 Temporary Revision (TR) 2A–48, dated July 6, 2012, to Appendix A—Certification Requirements, of Part 2, Airworthiness Requirements, of the Bombardier CL–600–2B19 Maintenance Requirements Manual (MRM), except as specified in paragraph (j) of this AD. The initial compliance times for the tasks are specified in paragraph (h) of this AD.

Note 1 to paragraph (g) of this AD: The maintenance program revision required by paragraph (g) of this AD may be done by inserting a copy of Bombardier CL–600–2B19 TR 2A–48, dated July 6, 2012, into Appendix A—Certification Requirements, of Part 2, Airworthiness Requirements, of the Bombardier CL–600–2B19 MRM. When this TR has been included in general revisions of the MRM, the general revisions may be inserted in the MRM, provided the relevant information in the general revision is identical to that in Bombardier CL–600–2B19 TR 2A–48, dated July 6, 2012.

(h) Initial Task Compliance Times

For the inboard and outboard flap actuators identified in Bombardier CL–600–2B19 TR 2A–48, dated July 6, 2012, to Appendix A—Certification Requirements, of Part 2, Airworthiness Requirements, of the Bombardier CL–600–2B19 MRM, the initial compliance times for the tasks specified in Bombardier CL–600–2B19 TR 2A–48, dated July 6, 2012, are at the applicable times specified in paragraphs (h)(1) through (h)(4) of this AD.

(1) For flap actuators that have accumulated less than 6,000 flight cycles as of the effective date of this AD, before the accumulation of 10,000 flight cycles on the flap actuator.

(2) For flap actuators that have accumulated 6,000 or more flight cycles but less than 10,000 flight cycles as of the effective date of this AD, within 4,000 flight cycles after the effective date of this AD, but no later than 12,000 flight cycles on the flap actuator.

(3) For flap actuators that have accumulated 10,000 or more flight cycles but less than or equal to 12,000 flight cycles as of the effective date of this AD, within 2,000 flight cycles after the effective date of this AD, but no later than 13,000 flight cycles on the flap actuator.

(4) For flap actuators that have accumulated more than 12,000 flight cycles as of the effective date of this AD, within 1,000 flight cycles after the effective date of this AD.

(i) Repetitive Compliance Time

Where Bombardier CL–600–2B19 TR 2A–48, dated July 6, 2012, to Appendix A—Certification Requirements, of Part 2, Airworthiness Requirements, of the Bombardier CL–600–2B19 MRM, specifies a task interval of 10,000 flight cycles or 144 months, the task interval is 10,000 flight cycles.

(j) No Alternative Actions and Intervals

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

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2012–26, dated October 30, 2012; and Bombardier CL–600–2B19 TR 2A–48, dated July 6, 2012, to Appendix A—Certification Requirements, of Part 2, Airworthiness Requirements, of the Bombardier CL–600–2B19 MRM; for related information.

(2) For Bombardier, Inc. service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* 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 28, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–08048 Filed 4–5–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0033; Airspace Docket No. 13–AEA–1]

Proposed Establishment of Class E Airspace; Leesburg, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E surface airspace at Leesburg, VA, to aid Potomac TRACON in the safe and orderly flow of air traffic at Leesburg Executive Airport. This action would enhance the safety and airspace management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before May 23, 2013. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA, Order 7400.9 and publication of conforming amendments.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2013–0033; Airspace Docket No. 13–AEA–1, at the beginning of your comments. You may also submit and review received

comments through the Internet at *http://www.regulations.gov.*

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA–2013–0033; Airspace Docket No. 13–AEA–1) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2013–0033; Airspace Docket No. 13–AEA–1.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined between 8:30 a.m. and 5:00 p.m. Monday through Friday, except Federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, room 350, 1701 Columbia Avenue, College Park, Georgia 30337.

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

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to establish Class E surface airspace at Leesburg, VA, providing the controlled airspace required to aid Potomac TRACON in the safe and orderly flow of air traffic at Leesburg Executive Airport. Controlled airspace extending upward from the surface within a 6-mile radius of the airport would be established for the safety and management of IFR operations.

Class E surface airspace designations are published in Paragraph 6002 of FAA Order 7400.9W, dated August 8, 2012, and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would establish Class E surface airspace at Leesburg Executive Airport, Leesburg, VA.

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment:

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011, effective September 15, 2011, is amended as follows:

Paragraph 6002 Class E airspace designated as surface areas.

* * * * *

AEA VA E2 Leesburg, VA [New]

Leesburg Executive Airport, VA
(Lat. 49°04′41″ N., long. 7577°33′27″ W.)

That airspace extending upward from the surface within a 6-mile radius of Leesburg Executive Airport.

Issued in College Park, Georgia, on March 29, 2013.

Barry A. Knight,

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

[FR Doc. 2013–08087 Filed 4–5–13; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 23

RIN 3038–AE00

Swap Dealers and Major Swap Participants; Clerical or Ministerial Employees

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is proposing to amend its regulations (Proposal) to clarify certain responsibilities of a swap dealer (SD) or major swap participant (MSP) regarding its employees who solicit, accept or effect swaps in a clerical or ministerial capacity.

DATES: Comments must be received on or before June 7, 2013.

ADDRESSES: You may submit comments, identified by RIN number 3038–AE00, by any of the following methods:

- *Agency Web site: http://www.cftc.gov.*
- *Mail:* Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail, above.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow instructions for submitting comments.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedure established in CFTC Regulation 145.9.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Christopher W. Cummings, Special Counsel, (202) 418–6700, *ccummings@cftc.gov,* or Barbara S. Gold, Associate Director, (202) 418–6700, *bgold@cftc.gov,* Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)[2] was signed into law July 21, 2010. The Dodd-Frank Act amended the Commodity Exchange Act (CEA or Act)[3] to require the registration of SDs and MSPs, and to establish a comprehensive new regulatory framework for swaps. One such amendment was new CEA Section 4s(b)(6), which states: that except to the extent otherwise specifically provided by rule, regulation, or order, it shall be unlawful for a swap dealer or a major swap participant to permit any person associated with a swap dealer or a major swap participant who is subject to a statutory disqualification to effect or be involved in effecting swaps on behalf of the swap dealer or major swap participant, if the swap dealer or major swap participant knew, or in the exercise of reasonable care should have known, of the statutory disqualification [''Prohibition'']. A related amendment that the Dodd-Frank Act made was to add a definition of ''associated person of a swap dealer or major swap participant'' in new CEA Section 1a(4), which states that the term ''associated person of a swap dealer or major swap participant'' means a person who is associated with a swap dealer or major swap participant as a partner, officer, employee, or agent (or any person occupying a similar status or performing similar functions), in any capacity that involves the solicitation or acceptance of swaps; or the supervision of any person or persons so engaged. Other than for purposes of CEA section 4s(b)(6), the term ''associated person of a swap dealer or major swap participant'' does not include any person associated with a swap dealer or major swap participant the functions of which are solely clerical or ministerial.

Thus, except to the extent that the Commission specifically provided by rule, regulation, or order, an SD or MSP would be subject to the prohibition against permitting a person associated with the SD or MSP (including a person employed in a clerical or ministerial capacity) to effect or be involved in effecting swaps if the associated person were subject to a statutory disqualification.

On January 19, 2012, the Commission published in the **Federal Register** regulations that provide for the registration of SDs and MSPs.[4] Among these new regulations were Regulation 1.3(aa)(6), which amended the existing definition of ''associated person'' in the Commission's regulations to include associated persons of SDs and MSPs, and Regulation 23.22, which incorporated the prohibition set forth in CEA Section 4s(b)(6). Specifically, Regulation 1.3(aa)(6) (17 CFR 1.3(aa)(6) provides that the term ''associated person'' means any natural person who is associated in any of the following capacities with a swap dealer or major swap participant as a partner, officer, employee, agent (or any natural person occupying a similar status or performing similar functions), in any capacity that involves the solicitation or acceptance of swaps (other than in a clerical or ministerial capacity); or the supervision of any person or persons so engaged.

The exclusion in Regulation 1.3(aa)(6) from the definition of associated person of an SD or MSP for persons who act in a clerical or ministerial capacity is consistent with the definition (and exclusion for clerical or ministerial activity) in the other provisions in Regulation 1.3(aa) that define the term ''associated person'' in the context of other Commission registrants.[5]

II. The Proposal

Regulation 23.22, by its terms, applies to an associated person of an SD or MSP ''as defined in section 1a(4) of the Act and [Regulation] 1.3(aa).'' Because Regulation 1.3(aa)(6) contains a general exclusion from the associated person definition for a person employed in a clerical or ministerial capacity, and the exclusion in CEA Section 1a(4) must be read in conjunction with CEA Section 4s(b)(6), the National Futures

[1] The Commission's regulations are found at 17 CFR Ch. I (2012) and can be accessed through the Commission's Web site, *www.cftc.gov.*

[2] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010). The text of the Dodd-Frank Act can also be accessed through the Commission's Web site.

[3] 7 U.S.C. 1 *et seq.* The CEA also can be accessed through the Commission's Web site.

[4] *See* 77 FR 2613 (Jan. 19, 2012).

[5] *See also* CEA Section 4k(1), which excludes from associated person registration a person who, in a clerical or ministerial capacity, solicits or accept customer orders for a futures commission merchant or an introducing broker.

Association (NFA)[6] has recommended that the Commission clarify that the prohibition in CEA Section 4s(b)(6) does not bar association with an SD or MSP by employees who are employed in a clerical or ministerial capacity.

In light of NFA's recommendation, and in accordance with the language in CEA Section 4s(b)(6) that qualifies the Prohibition (''Except to the extent otherwise specifically provided by rule, regulation, or order''), the Commission is proposing to amend paragraph (a) of Regulation 23.22 to clarify that the Prohibition does not apply to an individual employed by an SD or MSP in a clerical or ministerial capacity.[7]

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)[8] requires that agencies, in proposing regulations, consider the impact of those regulations on small businesses.[9] The Commission previously has determined that SDs and MSPs are not ''small entities'' for RFA purposes.[10] Moreover, as is explained below, if adopted, the Proposal will not have a significant economic impact on any person who would be affected thereby, because it will not impose any additional operational requirements or otherwise direct or confine the activities of affected persons. Accordingly, the Chairman hereby certifies pursuant to 5 U.S.C. 605(b) that the Proposal will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA)[11] imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The Commission believes that the Proposal will not impose new recordkeeping or information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* Accordingly, the PRA does not apply to this rulemaking.

C. Cost-Benefit Considerations

CEA Section 15(a) requires the Commission to consider the costs and benefits of its actions before issuing a rulemaking under the CEA. CEA Section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the Section 15(a) factors.

Summary of the Proposal. As is explained above, the Proposal would make a clarifying change to the text of one of the Commission's regulations that were adopted to reflect changes made to the CEA by the Dodd-Frank Act, by specifying that the prohibition against an SD or MSP permitting a statutorily disqualified person to associate with it does not include a person employed in a clerical or ministerial capacity.

Costs. With respect to costs, the Commission believes that the Proposal will not impose any costs. This is because the Proposal would clarify that an SD or MSP need not consider whether CEA section 4s(b)(6) applies to employees performing clerical or ministerial duties. Thus the Commission proposes that there will be little (if any) costs to persons who will be affected by the Proposal.

Benefits. With respect to benefits, the Commission proposes that the Proposal will benefit SDs and MSPs by reducing the search costs associated with determining whether a clerical or ministerial employee is statutorily disqualified. This, in turn, mitigates the cost of compliance with CEA Section 4s(b)(6).

Public Comment. The Commission invites public comment on its cost-benefit considerations. Commenters are also invited to submit any data or other information that they may have quantifying or qualifying the costs and benefits of the Proposal with their comment letters.

List of Subjects in 17 CFR Part 23

Associated persons, Commodity futures, Major swap participants, Ministerial or clerical employees, Registration, Statutory disqualification, Swap dealers, Swaps.

For the reasons presented above, the Commission hereby proposes to amend chapter I of title 17 of the Code of Federal Regulations as follows:

PART 23—SWAP DEALERS AND MAJOR SWAP PARTICIPANTS

■ 1. The authority citation for part 23 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 6, 6a, 6b, 6b–1, 6c, 6p, 6r, 6s, 6t, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, and 21.

■ 2. Section 23.22 is amended by revising the section heading and paragraph (a) to read as follows:

§ 23.22 Prohibition against statutory disqualification in the case of an associated person of a swap dealer or major swap participant.

(a) *Definition.* For purposes of this section, the term ''person'' means an ''associated person of a swap dealer or major swap participant'' as defined in section 1a(4) of the Act and § 1.3(aa)(6) of this chapter, but does not include an individual employed in a clerical or ministerial capacity.

* * * * *

Issued in Washington, DC, on March 27, 2013, by the Commission.

Christopher J. Kirkpatrick,

Deputy Secretary of the Commission.

[FR Doc. 2013–07538 Filed 4–5–13; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2013–0156]

RIN 1625–AA08

Special Local Regulations; Marine Events, Potomac River; National Harbor Access Channel, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish special local regulations during the ''Swim Across the Potomac'' swimming competition, to be held on the waters of the Potomac River on June 2, 2013. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to temporarily restrict vessel traffic in a portion of the Potomac River during the event.

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[6] Letter from Thomas W. Sexton, Senior Vice President and General Counsel, NFA, to Gary Barnett, Director of the Division of Swap Dealer and Intermediary Oversight, dated November 12, 2012. NFA is a registered futures association (and the sole association so registered) under CEA Section 17.

[7] In this regard, the Commission notes that pursuant to this authority in CEA Section 4s(b)(6), it previously adopted an exception from the Prohibition for a person already listed as a principal of, or already registered as an associated person of, another Commission registrant, notwithstanding a statutory disqualification. *See* Regulation 23.22(b), *proviso.*

[8] 5 U.S.C. 601 *et seq.* (2006).

[9] By its terms, the RFA does not apply to ''individuals.'' *See* 48 FR 14933, n. 115 (Apr. 6, 1983).

[10] *See* 77 FR 2613, 2620 (Jan. 19, 2012).

[11] 44 U.S.C. 3501 *et seq.*

DATES: Comments and related material must be received by the Coast Guard on or before May 8, 2013.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ronald Houck, U.S. Coast Guard Sector Baltimore, MD; telephone 410–576–2674, email *Ronald.L.Houck@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. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov*, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, type the docket number [USCG–2013–0156] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number (USCG–2013–0156) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to ensure safety of life on navigable waters of the United States during the Swim Across the Potomac event.

On June 2, 2013, WaveOne Swimming of Washington, DC, and the National Harbor Marina of National Harbor, MD, will sponsor a swimming competition across the Potomac River between Virginia and Maryland. The event consists of up to 150 swimmers on a 1.3-mile linear course located downriver from the Woodrow Wilson Memorial (I–495/I–95) Bridge. The swimmers will be supported by sponsor-provided watercraft. The start will be located at North Point in Jones Point Park and the finish will be located along the shore at National Harbor Marina. Portions of the swim course will cross the Potomac River federal navigation channel and the National Harbor Access Channel.

C. Discussion of Proposed Rule

The Coast Guard proposes to establish special local regulations on specified waters of the Potomac River. The regulations will be enforced from 7 a.m. to 11 a.m. on June 2, 2013. The regulated area, approximately 1,900 yards in length and 350 yards in width, extends across the entire width of the National Harbor Access Channel and includes the waters of the Potomac River, from shoreline to shoreline, bounded to the north by a line drawn that originates at Jones Point Park, VA at the west shoreline latitude 38°47′35″ N, longitude 077°02′22″ W, thence east to latitude 38°47′12″ N, longitude 077°00′58″ W, at east shoreline near National Harbor, MD. The regulated area is bounded to the south by a line drawn originating at George Washington Memorial Parkway highway overpass and Cameron Run, west shoreline latitude 38°47′23″ N, longitude 077°03′03″ W thence east to latitude 38°46′52″ N, longitude 077°01′13″ W, at east shoreline near National Harbor, MD.

The effect of this proposed rule will be to restrict general navigation in the regulated area during the event. Vessels intending to transit the Potomac River through the regulated area, including the National Harbor Access Channel, will only be allowed to safely transit the regulated area when the Coast Guard

Patrol Commander has deemed it safe to do so. Due to the need for vessel control during the event, the Coast Guard will temporarily restrict vessel traffic in the event area to provide for the safety of participants, spectators and other transiting vessels. The Coast Guard will provide notice of the special local regulations by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

Although this regulation will prevent traffic from transiting portions of the Potomac River and National Harbor Access Channel during the event, the effect of this regulation will not be significant due to the following reasons: (1) The regulated area will be in effect for only 4 hours; (2) the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary; (3) vessel traffic will be able to transit safely through a portion of the regulated area, but only after the last participant has cleared that portion of the regulated area and when the Coast Guard Patrol Commander deems it safe to do so; 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

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of Potomac River encompassed within the special local regulations from 7 a.m. until 11 a.m. on June 2, 2013. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children from Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did

not consider the use of voluntary consensus standards.

14. Environment

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

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.35–T05–0156 to read as follows:

§ 100.35–T05–0156 Special Local Regulations for Marine Events; Potomac River, National Harbor Access Channel, MD.

(a) *Regulated Area.* The following regulated area is established as special local regulations. All coordinates are North American Datum 1983.

(1) Regulated Area: All water of the Potomac River, from shoreline to shoreline, bounded to the north by a line drawn that originates at Jones Point Park, VA at the west shoreline latitude 38°47′35″ N, longitude 077°02′22″ W, thence east to latitude 38°47′12″ N, longitude 077°00′58″ W, at east shoreline near National Harbor, MD. The regulated area is bounded to the south by a line drawn originating at George Washington Memorial Parkway highway overpass and Cameron Run, west shoreline latitude 38°47′23″ N, longitude 077°03′03″ W thence east to latitude 38°46′52″ N, longitude 077°01′13″ W, at east shoreline near National Harbor, MD.

(b) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the U. S. Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* means all persons and vessels participating in the Swim Across the Potomac event under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Baltimore.

(c) *Special local regulations.* (1) The Coast Guard Patrol Commander may forbid and control the movement of all vessels and persons in the regulated area. When hailed or signaled by an official patrol vessel, a vessel or person in the regulated area shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(2) Persons desiring to transit the regulated area must first obtain authorization from the Captain of the Port Baltimore or his designated representative. To seek permission to transit the area, the Captain of the Port Baltimore and his designated representatives can be contacted at telephone number 410–576–2693 or on Marine Band Radio, VHF–FM channel 16 (156.8 MHz). All Coast Guard vessels enforcing this regulated area can be contacted on marine band radio VHF–FM channel 16 (156.8 MHz).

(3) The Coast Guard Patrol Commander may terminate the event, or the operation of any participant in the event, at any time it is deemed necessary for the protection of life or property.

(4) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF–FM marine band radio announcing specific event date and times.

(d) Enforcement period: This section will be enforced from 7 a.m. until 11 a.m. on June 2, 2013.

Dated: March 21, 2013.

Kevin C. Kiefer,

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

[FR Doc. 2013–08040 Filed 4–5–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0124]

RIN 1625–AA00

Safety Zones; Marine Week Air Ground Demonstration, Lake Washington; Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The U.S. Coast Guard proposes to establish safety zones around vessels and persons involved in the Marine Week Seattle Special Marine Air Ground Task Force Demonstration on Lake Washington, Seattle, WA. This event will occur from August 9, 2013, until August 11, 2013. A safety zone is necessary to ensure the safety of the maritime public during this event, which involves demonstrations of low flying aircraft, amphibious vehicles, swimmers, combat equipment, and other elements that could create safety concerns for waterway users. This safety zone would ensure the safety of the maritime public by prohibiting any person or vessel from entering or remaining in the safety zone unless authorized by the Captain of the Port (COTP) or a Designated Representative.

DATES: Comments and related material must be received by the Coast Guard on or before May 8, 2013.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid

duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LTJG Anthony P. LaBoy, Waterways Management Division, Coast Guard Sector Puget Sound; Coast Guard; telephone 206–217–6045, email *SectorPugetSoundWWM@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. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov,* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number [USCG–2013–0124] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½; by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2013–0124) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting, but you may submit a request for one using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Basis and Purpose

The Coast Guard received a marine event permit application from the United States Marine Corps on February 5, 2013. From August 5 to August 11, 2013, Special Purpose Marine Air Ground Task Force Marine Week Seattle will conduct Marine Week Seattle in order to showcase and demonstrate the value of the Marine Corps; cultivate relationships with local government, academia, and business communities; reinforce recruiting efforts; promote modernization of equipment and training; promote the Corps' Marine Air Ground Task Force and expeditionary agility; and, emphasize the Corps' diversity in its ''one team-one fight'' ethos.

The Ports and Waterways Safety Act, 33 U.S.C. 1221–1232, authorizes the Coast Guard to establish safety zones under 33 U.S.C. 1226(b)(1). The Coast Guard proposes to establish this safety zone during the Marine Week Demonstration on Lake Washington, Seattle, WA. The safety zone will help ensure the safety of the maritime public by prohibiting any person or vessel from entering or remaining in the safety zone unless authorized by the Captain of the Port (COTP) or a Designated Representative.

C. Discussion of Proposed Rule

The Marine Air Ground Task Force Demonstration Area will include low flying aircraft, amphibious vehicles, swimmers, combat equipment, and other elements. The following proposed safety zone is for the Marine Air Ground Task Force Demonstration Area: All waters of Lake Washington encompassed by the following points: 47°33′50″ N, 122°14′51″ W, thence northwesterly to 47°35′12″ N 122°16′25″ W, thence southwesterly to 47°34′56″ N, 122°17′9″ W; thence south easterly along the shoreline to 47°33′32″ N, 122°15′50″ W, thence northwesterly back to the point of origin.

A second proposed safety zone will be used by amphibious vehicles transiting from Proctor's Landing into the demonstration area and will be kept clear to allow emergency response vessels to transit and respond to medical emergencies. The following area is the proposed safety zone for the Access Lane: All waters of Lake Washington encompassed by the following points: 47°34′49″ N, 122°14′58″ W, thence northwesterly to 47°34′59″ N, 122°15′10″ W, thence southwesterly to 47°34′41″ N, 122°15′49″ W; thence southeasterly to 47°34′27″ N, 122°15′34″ W, thence back to the point of origin.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under

section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This finding is based on the fact that the waters encompassed by the proposed Safety Zone are not frequented by commercial navigation, and the zone is small in size and short in duration.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit this portion of Lake Washington during the time this regulation is in effect. The zone will not have a significant economic impact because it is limited in size and short in duration. The only vessels likely to be impacted will be recreational boaters and small passenger vessel operators.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of a safety zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L.

107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add section 165.T13–244 to read as follows:

§ 165.T13–244 Safety Zone; Marine Week Air Ground Demonstration, Lake Washington; Seattle, WA.

(a) *Locations.* The following areas are designated as a safety zone:

(1) Marine Air Ground Task Force Demonstration Area: All waters of Lake Washington encompassed by the following points: 47°33′50″ N, 122°14′51″ W, thence northwesterly to 47°35′12″ N, 122°16′25″ W, thence southwesterly to 47°34′56″ N, 122°17′9″ W; thence southeasterly along the shoreline to 47°33′32″ N, 122°15′50″ W, thence northwesterly back to the point of origin.

(2) Access Lane: All waters of Lake Washington encompassed by the following points: 47°34′49″ N, 122°14′58″ W, thence northwesterly to 47°34′59″ N, 122°15′10″ W, thence southwesterly to 47°34′41″ N, 122°15′49″ W; thence southeasterly to 47°34′27″ N, 122°15′34″ W, thence back to the point of origin.

(b) *Regulations.* In accordance with the general regulations in 33 CFR part 165, Subpart C, no person or vessel may enter or remain in the safety zone created by this section without the permission of the Captain of the Port or his Designated Representative. Designated Representatives are Coast Guard Personnel authorized by the Captain of the Port to grant persons or vessels permission to enter or remain in the safety zones created by this section. See 33 CFR part 165, Subpart C, for additional information and requirements. The COTP may be assisted by other federal, state or local agencies with the enforcement of this safety zone.

(c) *Authorization.* All vessel operators who desire to enter the safety zone must obtain permission from the COTP or a Designated Representative by contacting the on-scene Coast Guard patrol craft on VHF 13 or Ch 16. Requests must include the reason why movement within this area is necessary. Vessel operators granted permission to enter the safety zone shall transit at the minimum speed necessary to maintain course.

(d) *Effective Period.* This rule is effective from 6:00 a.m. on August 9, 2013 through 11:59 p.m. on August 11, 2013.

Dated: March 4, 2013.

S.J. Ferguson,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 2013–08039 Filed 4–5–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–HQ–OAR–2012–0322; FRL–9799–7]

RIN 2060–AR68

State Implementation Plans: Response to Petition for Rulemaking; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of public comment period.

SUMMARY: The EPA is announcing an extension of the public comment period for its proposal titled, ''State Implementation Plans: Response to Petition for Rulemaking; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction.'' The EPA has received numerous requests for extension of the comment period beyond the current deadline of April 11, 2013, and one request that it not extend the comment period by an additional 60 to 90 days, and in response to those requests the EPA is extending the comment period by an additional 30 days.

DATES: Comments on the proposed rule published February 22, 2013 (78 FR 12460) must be received on or before May 13, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2012–0322, by one of the following methods:

- *http://www.regulations.gov:* Follow the online instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* Attention Docket ID No. EPA–HQ–OAR–2012–0322, U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Avenue NW., Mail Code: 6102T, Washington, DC 20460. Please include a total of two copies.
- *Hand Delivery:* U.S. Environmental Protection Agency, EPA West (Air Docket), 1301 Constitution Avenue, Northwest, Room 3334, Washington, DC 20004, Attention Docket ID No. EPA–HQ–OAR–2012–0322. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2012–0322. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any CD you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, avoid any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket visit the EPA Docket Center homepage at *www.epa.gov/epahome/dockets.htm.* For additional instructions on submitting comments, go to section I.A of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket. All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, Air Docket, EPA/DC, EPA West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is

(202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Questions concerning this action should be addressed to Ms. Lisa Sutton, U.S. EPA, Office of Air Quality Planning and Standards, State and Local Programs Group, (C539–01), Research Triangle Park, NC 27711, telephone number (919) 541–3450, email at *sutton.lisa@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. What should I consider as I prepare my comments?

1. *Submitting CBI.* Do not submit this information to the EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in CD that you mail to the EPA, mark the outside of the CD as CBI and then identify electronically within the CD 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. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA–HQ–OAR–2012–0322.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date, and page number).
- 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.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

Make sure to submit your comments by the comment period deadline identified.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this notice will also be available on the World Wide Web. Following signature, a copy of this notice will be posted on the EPA's Web site, under SSM SIP Call 2013, at *www.epa.gov/air/urbanair/sipstatus.* In addition to this notice, other relevant documents are located in the docket, including the proposal notice and comments received on the proposed rulemaking so far, including requests for extension of the comment period.

II. Background

The purpose of this notice is to extend the public comment period on the EPA's recently proposed rulemaking titled, ''State Implementation Plans: Response to Petition for Rulemaking; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction.'' The proposal was published in the **Federal Register** on February 22, 2013, with an original deadline of March 25, 2013, for receipt of comments. However, as provided in the proposal, because a public hearing on the proposal was requested and this hearing was held on March 12, 2013, the deadline for receipt of comments was automatically extended to 30 days after the date of the public hearing. Accordingly, the public comment period for the proposal has already been extended to April 11, 2013.

The EPA has received numerous requests to extend the end date of the comment period for the proposed rulemaking beyond April 11, 2013. Those requesting additional time include industry, industry trade associations, and state and local air pollution agencies in potentially affected states. These requestors claim that because the proposal is complex and far-reaching, with unique state-specific issues, they need extra time during which to review existing SIP provisions in light of the proposed actions and to provide meaningful and comprehensive comments on all aspects of the proposal.

The EPA has also received, to date, one request that it not extend the comment period for the proposed rulemaking. This request was from the environmental group that submitted the petition at issue to the EPA. This requestor opposes requests to extend the comment period by an additional 60 to 90 days, given the seriousness of public health issues at stake and the already extended period of time it will take to address any necessary SIP revisions as a result of the proposed rulemaking, and because the justifications offered for extension of the comment period are not relevant to the specific issues in the rulemaking.

The EPA has carefully evaluated these competing requests regarding the length of the public comment period for the proposed rulemaking. In response to these requests, the EPA by this notice is extending the comment period for an additional 30 days, that is, until May 13, 2013. Accordingly, the EPA notes, commenters thus have a comment period of 80 days from the date the proposed rulemaking was published in the **Federal Register** and 89 days from the date the proposed rulemaking was posted on the EPA's Web site. The EPA believes that this length of comment period is reasonable and appropriate, considering the issues addressed in the proposed rulemaking.

Dated: April 2, 2013.

Mary E. Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 2013–08118 Filed 4–5–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2009–0839; FRL–9799–5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Redesignation of the Indianapolis Area to Attainment of the 1997 Annual Standard for Fine Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; supplemental.

SUMMARY: EPA is issuing a supplement to its proposed approval of the State of Indiana's request to redesignate the Indianapolis area to attainment for the 1997 annual National Ambient Air Quality Standards (NAAQS or standard) for fine particulate matter ($PM_{2.5}$). This supplemental proposal revises and expands the basis for proposing approval of the state's request, in light of developments since EPA issued its initial proposal on September 27, 2011. This supplemental proposal addresses four issues, including the effects of two decisions of the United States Court of

Appeals for the District of Columbia (D.C. Circuit or Court): the Court's August 21, 2012 decision to vacate and remand to EPA the Cross-State Air Pollution Control Rule (CSAPR) and the Court's January 4, 2013 decision to remand to EPA two final rules implementing the 1997 $PM_{2.5}$ standard. In this supplemental proposal, EPA is also proposing to approve a supplement to the emission inventories previously submitted by the state. EPA is proposing that the inventories for ammonia and Volatile Organic Compounds (VOC), in conjunction with the inventories for nitrogen oxides (NO_X), direct $PM_{2.5}$, and sulfur dioxide (SO_2) that EPA previously proposed to approve, meet the comprehensive emissions inventory requirement of the Clean Air Act (CAA). Finally, this supplemental proposal solicits comment on the state's January 17, 2013 submission of Motor Vehicle Emissions Budgets (MVEBs) developed using EPA's Motor Vehicle Emissions Simulator (MOVES) 2010a emissions model to replace the MOBILE6.2 based MVEBs previously submitted as part of the $PM_{2.5}$ maintenance plan for the Indianapolis area. EPA is seeking comment only on the issues raised in its supplemental proposal, and is not re-opening for comment other issues raised in its prior proposal.

DATES: Comments must be received on or before April 29, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2009–0839, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: Aburano.Douglas@epa.gov.*
3. *Fax:* (312) 408–2279.
4. *Mail:* Doug Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand delivery:* Doug Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2009–0839. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of this document, ''What Should I Consider as I Prepare My Comments for EPA?''

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Kathleen D'Agostino, Environmental Engineer, at (312) 886–1767 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767, *dagostino.kathleen@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What should I consider as I prepare my comments for EPA?
II. What is the background for the supplemental proposal?
III. On what specific issues is EPA taking comments?
A. Effect of the August 21, 2012 D.C. Circuit Decision Regarding EPA's CSAPR
1. Background
2. Supplemental Proposal on This Issue
B. Effect of the January 4, 2013 D.C. Circuit Decision Regarding $PM_{2.5}$ Implementation Under Subpart 4
1. Background
2. Supplemental Proposal on This Issue
a. Applicable Requirements for Purposes of Evaluating the Redesignation Request
b. Subpart 4 Requirements and Indiana's Redesignation Request
c. Subpart 4 and Control of $PM_{2.5}$ Precursors
d. Maintenance Plan and Evaluation of Precursors
C. Ammonia and VOC Comprehensive Emissions Inventories
D. MVEBs
1. How are MVEBs developed and what are the MVEBs for the Indianapolis area?
2. What are safety margins?
IV. Summary of Proposed Actions
V. Statutory and Executive Order Reviews

I. What should I consider as I prepare my comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date, and page number).
2. Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

II. What is the background for the supplemental proposal?

On October 20, 2009, the Indiana Department of Environmental Management (IDEM) submitted a request to EPA to redesignate the Indianapolis nonattainment area (Hamilton, Hendricks, Johnson, Marion, and Morgan counties) to attainment for the 1997 annual $PM_{2.5}$ NAAQS, and for EPA approval of Indiana's State Implementation Plan (SIP) revision containing an emissions inventory and a maintenance plan for the area. IDEM supplemented its submission on May 31, 2011.

On September 27, 2011, EPA published notices of proposed (76 FR 59599) and direct final (76 FR 59512) rulemaking determining that the Indianapolis area has attained the 1997 annual $PM_{2.5}$ standard and that the area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. In those rules EPA proposed several related actions. First, EPA proposed to approve the request from IDEM to change the legal designation of the Indianapolis area from nonattainment to attainment for the 1997 annual $PM_{2.5}$ NAAQS. EPA also proposed to approve Indiana's $PM_{2.5}$ maintenance plan for the Indianapolis area as a revision to the Indiana SIP because the plan meets the requirements of section 175A of the CAA. In addition, EPA proposed to approve 2006 emissions inventories for primary $PM_{2.5}$, NO_X, and SO_2, documented in Indiana's May 31, 2011 $PM_{2.5}$ redesignation request supplemental submittal as satisfying the requirement in section 172(c)(3) of the CAA for a comprehensive, current emission inventory. Finally, EPA found adequate and proposed to approve 2015 and 2025 direct $PM_{2.5}$ and NO_X MVEBs for the Indianapolis area. EPA subsequently received adverse comments on the direct final rule and withdrew it on November 27, 2011 (76 FR 70361). The proposal was not withdrawn.

EPA today is issuing a supplement to its September 27, 2011 proposed rulemaking. This supplemental proposal addresses four separate issues which affect the proposed redesignation and which have arisen since the issuance of the proposal: two recent decisions of the D.C. Circuit, the State of Indiana's supplemental submission of comprehensive ammonia and VOC emissions inventories, and the State of Indiana's supplemental submission of revised MVEBs.

In the first of the two Court decisions, the D.C. Circuit, on August 21, 2012, issued *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7 (D.C. Cir. 2012), which vacated and remanded CSAPR and ordered EPA to continue administering the Clean Air Interstate Rule (CAIR) ''pending * * * development of a valid replacement.'' *EME Homer City* at 38. The D.C. Circuit denied all petitions for rehearing on January 24, 2013. In the second decision, on January 4, 2013, in *Natural Resources Defense Council* v. *EPA,* the D.C. Circuit remanded to EPA the ''Final Clean Air Fine Particle Implementation Rule'' (72 FR 20586, April 25, 2007) and the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' final rule (73 FR 28321, May 16, 2008). 706 F.3d 428 (D.C. Cir. 2013).

In a supplemental submission to EPA on March 18, 2013, Indiana submitted 2007/2008 ammonia and VOC emissions inventories to supplement the emissions inventories that had previously been submitted. In a separate supplemental submission dated January 17, 2013, the state submitted MVEBs developed using EPA's MOVES 2010a emissions model to replace the MOBILE6.2 based MVEBs previously submitted as part of the $PM_{2.5}$ maintenance plan for the Indianapolis area. Therefore, EPA's supplemental proposal revises and expands the basis for EPA's proposed approval of the state's request to redesignate the Indianapolis area to attainment for the 1997 $PM_{2.5}$ standard, in light of these developments since EPA's initial proposal.

III. On what specific issues is EPA taking comments?

A. Effect of the August 21, 2012 D.C. Circuit Decision Regarding EPA's CSAPR

1. Background

In its September 27, 2011 proposal to redesignate the Indianapolis area, EPA proposed to determine that the emission reduction requirements that contributed to attainment of the 1997 annual $PM_{2.5}$ standard in the nonattainment area could be considered permanent and enforceable. In the proposal, EPA noted that it had recently promulgated CSAPR (76 FR 48208, August 8, 2011), to replace CAIR, which had been in place since 2005. *See* 76 FR 59517. CAIR requires significant reductions in emissions of SO_2 and NO_X from electric generating units to limit the interstate transport of these pollutants and the ozone and fine particulate matter they form in the atmosphere. *See* 76 FR 70093. The D.C. Circuit initially vacated CAIR, *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded that rule to EPA without vacatur to preserve the environmental benefits provided by CAIR, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008).

CSAPR included regulatory changes to sunset (i.e., discontinue) CAIR and the CAIR Federal Implementation Plans (FIPs) for control periods in 2012 and beyond. *See* 76 FR 48322. Although Indiana's redesignation request and maintenance plan relied on reductions associated with CAIR, EPA proposed to approve the request based in part on the fact that CAIR was to remain in force through the end of 2011 and CSAPR would achieve ''similar or greater reductions in the relevant areas in 2012 and beyond.'' 76 FR 59517.

On December 30, 2011, the D.C. Circuit issued an order addressing the status of CSAPR and CAIR in response to motions filed by numerous parties seeking a stay of CSAPR pending judicial review. In that order, the Court stayed CSAPR pending resolution of the petitions for review of that rule in *EME Homer City Generation, L.P.* v. *EPA* (No. 11–1302 and consolidated cases). The Court also indicated that EPA was expected to continue to administer CAIR in the interim until judicial review of CSAPR was completed.

On August 21, 2012, the D.C. Circuit issued the decision in *EME Homer City,* to vacate and remand CSAPR and ordered EPA to continue administering CAIR ''pending * * * development of a valid replacement.'' *EME Homer City at* 38. The D.C. Circuit denied all petitions for rehearing on January 24, 2013. The deadline to file petitions for certiorari to the U.S. Supreme Court has not passed.[1] Nonetheless, EPA intends to continue to act in accordance with the *EME Homer City* opinion. EPA is therefore issuing this portion of its supplemental proposal to explain the legal status of CAIR and CSAPR, and to provide a limited opportunity to comment specifically on the impact of the *EME Homer City* decision on the proposed redesignation of the Indianapolis area.

2. Supplemental Proposal on This Issue

In light of these unique circumstances and for the reasons explained below, EPA in this portion of its supplemental rule is seeking comment limited to the impact of the Court's decision in *EME*

[1] Pursuant to Rule 13 of the U.S. Supreme Court Rules, a petition for certiorari must be filed within 90 days of the date of denial of rehearing. The Supreme Court may extend this deadline for good cause by up to 60 days.

Homer City on EPA's proposal to approve the redesignation request and the related SIP revisions for the Indianapolis area, including Indiana's plan for maintaining attainment of the annual $PM_{2.5}$ standard in the area. As explained in greater detail below, to the extent that attainment is due to emission reductions associated with CAIR, EPA is here determining that those reductions are sufficiently permanent and enforceable for purposes of CAA sections 107(d)(3)(E)(iii) and 175A.

As directed by the D.C. Circuit, CAIR remains in place and enforceable until EPA promulgates a valid replacement rule to substitute for CAIR. Indiana's SIP revision lists CAIR as a control measure that was adopted by the State in 2006 and required compliance by January 1, 2009. CAIR was thus in place and getting emission reductions when Indianapolis began monitoring attainment of the 1997 annual $PM_{2.5}$ standard during the 2006–2008 time period. The quality-assured, certified monitoring data continues to show the area in attainment of the 1997 $PM_{2.5}$ standard through 2011.

To the extent that Indiana is relying on CAIR in its maintenance plan to support continued attainment into the future, the recent directive from the DC Circuit in *EME Homer City* ensures that the reductions associated with CAIR will be permanent and enforceable for the necessary time period. EPA has been ordered by the Court to develop a new rule to address interstate transport to replace CSAPR and the opinion makes clear that after promulgating that new rule EPA must provide states an opportunity to draft and submit SIPs to implement that rule. Thus, CAIR will remain in place until EPA has promulgated a final rule through a notice-and-comment rulemaking process, states have had an opportunity to draft and submit SIPs in response to it, EPA has reviewed the SIPs to determine if they can be approved, and EPA has taken action on the SIPs, including promulgating a FIP if appropriate. The Court's clear instruction to EPA is that it must continue to administer CAIR until a valid replacement exists, and thus EPA believes that CAIR emission reductions may be relied upon until the necessary actions are taken by EPA and states to administer CAIR's replacement. Furthermore, the Court's instruction provides an additional backstop: by definition, any rule that replaces CAIR and meets the Court's direction would require upwind states to have SIPs that eliminate any significant contributions to downwind nonattainment and prevent interference with maintenance in downwind areas.

Moreover, in vacating CSAPR and requiring EPA to continue administering CAIR, the D.C. Circuit emphasized that the consequences of vacating CAIR ''might be more severe now in light of the reliance interests accumulated over the intervening four years.'' *EME Homer City,* 696 F.3d at 38. The accumulated reliance interests include the interests of states that reasonably assumed they could rely on reductions associated with CAIR which brought certain nonattainment areas into attainment with the NAAQS. If EPA were prevented from relying on reductions associated with CAIR in redesignation actions, states would be forced to impose additional, redundant reductions on top of those achieved by CAIR. EPA believes this is precisely the type of irrational result the Court sought to avoid by ordering EPA to continue administering CAIR. For these reasons also, EPA believes it is appropriate to allow states to rely on CAIR, and the existing emissions reductions achieved by CAIR, as sufficiently permanent and enforceable for regulatory purposes such as redesignations. Following promulgation of the replacement rule for CSAPR, EPA will review existing SIPs as appropriate to identify whether there are any issues that need to be addressed.

B. Effect of the January 4, 2013 D.C. Circuit Decision Regarding $PM_{2.5}$ Implementation Under Subpart 4

1. Background

As discussed above, on January 4, 2013, in *Natural Resources Defense Council* v. *EPA,* the D.C. Circuit remanded to EPA the ''Final Clean Air Fine Particle Implementation Rule'' (72 FR 20586, April 25, 2007) and the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' final rule (73 FR 28321, May 16, 2008) (collectively, ''1997 $PM_{2.5}$ Implementation Rule''). 706 F.3d 428 (D.C. Cir. 2013). The Court found that EPA erred in implementing the 1997 $PM_{2.5}$ NAAQS pursuant to the general implementation provisions of subpart 1 of Part D of Title I of the CAA, rather than the particulate-matter-specific provisions of subpart 4 of Part D of Title I.

2. Supplemental Proposal on This Issue

In this portion of EPA's supplemental proposal, EPA is soliciting comment on the limited issue of the effect of the Court's January 4, 2013 ruling on the proposed redesignation of Indianapolis to attainment for the 1997 annual $PM_{2.5}$ standard. As explained below, EPA is proposing to determine that the Court's January 4, 2013 decision does not prevent EPA from redesignating the Indianapolis area to attainment, because even in light of the Court's decision, redesignation for this area is appropriate under the CAA and EPA's longstanding interpretations of the CAA's provisions regarding redesignation. EPA first explains its longstanding interpretation that requirements that are imposed, or that become due, after a complete redesignation request is submitted for an area that is attaining the standard, are not applicable for purposes of evaluating a redesignation request. Second, EPA then shows that, even if EPA applies the subpart 4 requirements to the Indianapolis redesignation request and disregards the provisions of its 1997 $PM_{2.5}$ implementation rule recently remanded by the Court, the state's request for redesignation of this area still qualifies for approval. EPA's discussion takes into account the effect of the Court's ruling on the area's maintenance plan, which EPA views as approvable when subpart 4 requirements are considered.

a. Applicable Requirements for Purposes of Evaluating the Redesignation Request

With respect to the 1997 $PM_{2.5}$ Implementation Rule, the Court's January 4, 2013 ruling rejected EPA's reasons for implementing the $PM_{2.5}$ NAAQS solely in accordance with the provisions of subpart 1, and remanded that matter to EPA, so that it could address implementation of the 1997 $PM_{2.5}$ NAAQS under subpart 4 of Part D of the CAA, in addition to subpart 1. For the purposes of evaluating Indiana's redesignation request for the Indianapolis area, to the extent that implementation under subpart 4 would impose additional requirements for areas designated nonattainment, EPA believes that those requirements are not ''applicable'' for the purposes of CAA section 107(d)(3)(E), and thus EPA is not required to consider subpart 4 requirements with respect to the Indianapolis redesignation. Under its longstanding interpretation of the CAA, EPA has interpreted section 107(d)(3)(E) to mean, as a threshold matter, that the part D provisions which are ''applicable'' and which must be approved in order for EPA to redesignate an area include only those which came due prior to a state's submittal of a complete redesignation request. *See* ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John

Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni memorandum). *See also* ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,'' Memorandum from Michael Shapiro, Acting Assistant Administrator, Air and Radiation, September 17, 1993 (Shapiro memorandum); Final Redesignation of Detroit-Ann Arbor, (60 FR 12459, 12465–66, March 7, 1995); Final Redesignation of St. Louis, Missouri, (68 FR 25418, 25424–27, May 12, 2003); *Sierra Club* v. *EPA,* 375 F.3d 537, 541 (7th Cir. 2004) (upholding EPA's redesignation rulemaking applying this interpretation and expressly rejecting Sierra Club's view that the meaning of ''applicable'' under the statute is ''whatever should have been in the plan at the time of attainment rather than whatever actually was in the plan and already implemented or due at the time of attainment'').[2] In this case, at the time that Indiana submitted its redesignation request, requirements under subpart 4 were not due, and indeed, were not yet known to apply.

EPA's view that, for purposes of evaluating the Indianapolis redesignation, the subpart 4 requirements were not due at the time Indiana submitted the redesignation request is in keeping with the EPA's interpretation of subpart 2 requirements for subpart 1 ozone areas redesignated subsequent to the D.C. Circuit's decision in *South Coast Air Quality Mgmt. Dist.* v. *EPA,* 472 F.3d 882 (D.C. Cir. 2006). In *South Coast,* the Court found that EPA was not permitted to implement the 1997 8-hour ozone standard solely under subpart 1, and held that EPA was required under the statute to implement the standard under the ozone-specific requirements of subpart 2 as well. Subsequent to the *South Coast* decision, in evaluating and acting upon redesignation requests for the 1997 8-hour ozone standard that were submitted to EPA for areas under subpart 1, EPA applied its longstanding interpretation of the CAA that ''applicable requirements'', for purposes of evaluating a redesignation, are those that had been due at the time the redesignation request was submitted. *See, e.g.,* Proposed Redesignation of Manitowoc County and Door County Nonattainment Areas (75 FR 22047, 22050, April 27, 2010). In those actions, EPA therefore did not consider subpart 2 requirements to be ''applicable'' for the purposes of evaluating whether the area should be redesignated under section 107(d)(3)(E).

EPA's interpretation derives from the provisions of CAA Section 107(d)(3). Section 107(d)(3)(E)(v) states that, for an area to be redesignated, a state must meet ''all requirements 'applicable' to the area under section 110 and part D''. Section 107(d)(3)(E)(ii) provides that the EPA must have fully approved the ''applicable'' SIP for the area seeking redesignation. These two sections read together support EPA's interpretation of ''applicable'' as only those requirements that came due prior to submission of a complete redesignation request. First, holding states to an ongoing obligation to adopt new CAA requirements that arose after the state submitted its redesignation request, in order to be redesignated, would make it problematic or impossible for EPA to act on redesignation requests in accordance with the 18-month deadline Congress set for EPA action in section 107(d)(3)(D). If ''applicable requirements'' were interpreted to be a continuing flow of requirements with no reasonable limitation, states, after submitting a redesignation request, would be forced continuously to make additional SIP submissions that in turn would require EPA to undertake further notice-and-comment rulemaking actions to act on those submissions. This would create a regime of unceasing rulemaking that would delay action on the redesignation request beyond the 18-month timeframe provided by the Act for this purpose.

Second, a fundamental premise for redesignating a nonattainment area to attainment is that the area has attained the relevant NAAQS due to emission reductions from existing controls. Thus, an area for which a redesignation request has been submitted would have already attained the NAAQS as a result of satisfying statutory requirements that came due prior to the submission of the request. Absent a showing that unadopted and unimplemented requirements are necessary for future maintenance, it is reasonable to view the requirements applicable for purposes of evaluating the redesignation request as including only those SIP requirements that have already come due. These are the requirements that led to attainment of the NAAQS. To require, for redesignation approval, that a state also satisfy additional SIP requirements coming due after the state submits its complete redesignation request, and while EPA is reviewing it, would compel the state to do more than is necessary to attain the NAAQS, without a showing that the additional requirements are necessary for maintenance.

In the context of the Indianapolis redesignation, the timing and nature of the Court's January 4, 2013 decision in *NRDC* v. *EPA* compound the consequences of imposing requirements that come due after the redesignation request is submitted. While Indiana submitted its redesignation request in 2009 and EPA proposed to approve it in 2011, the Court did not issue its decision remanding EPA's 1997 $PM_{2.5}$ implementation rule concerning the applicability of the provisions of subpart 4 until January 2013.

To require Indiana's fully-completed and long-pending redesignation request to comply now with requirements of subpart 4 that the Court has just announced would be to give retroactive effect to such requirements when the State had no notice that it was required to meet them. The D.C. Circuit recognized the inequity of this type of retroactive impact in *Sierra Club* v. *Whitman,* 285 F.3d 63 (D.C. Cir. 2002),[3] where it upheld the District Court's ruling refusing to make retroactive EPA's determination that the St. Louis area did not meet its attainment deadline. In that case, petitioners urged the Court to make EPA's nonattainment determination effective as of the date that the statute required, rather than the later date on which EPA actually made the determination. The Court rejected this view, stating that applying it ''would likely impose large costs on States, which would face fines and suits for not implementing air pollution prevention plans * * * even though they were not on notice at the time.'' *Id.* at 68. Similarly, it would be unreasonable to penalize Indiana by rejecting its redesignation request for an area that is already attaining the 1997 $PM_{2.5}$ standard and that met all applicable requirements known to be in effect at the time of the request. For EPA now to reject the redesignation request solely because the state did not expressly address subpart 4 requirements of which it had no notice, would inflict the same unfairness

[2] Applicable requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request remain applicable until a redesignation is approved, but are not required as a prerequisite to redesignation. Section 175A(c) of the CAA.

[3] *Sierra Club* v. *Whitman* was discussed and distinguished in a recent D.C. Circuit decision that addressed retroactivity in a quite different context, where, unlike the situation here, EPA sought to give its regulations retroactive effect. *National Petrochemical and Refiners Ass'n* v. *EPA.* 630 F.3d 145, 163 (D.C. Cir. 2010), rehearing denied 643 F.3d 958 (D.C. Cir. 2011), cert denied 132 S. Ct. 571 (2011).

condemned by the Court in *Sierra Club* v. *Whitman.*

b. Subpart 4 Requirements and Indiana's Redesignation Request

Even if EPA were to take the view that the Court's January 4, 2013 decision requires that, in the context of pending redesignations, subpart 4 requirements were due and in effect at the time the State submitted its redesignation request, EPA proposes to determine that the Indianapolis area still qualifies for redesignation to attainment. As explained below, EPA believes that the redesignation request for the Indianapolis area, though not expressed in terms of subpart 4 requirements, substantively meets the requirements of that subpart for purposes of redesignating the area to attainment.

With respect to evaluating the relevant substantive requirements of subpart 4 for purposes of redesignating the Indianapolis area, EPA notes that subpart 4 incorporates components of subpart 1 of part D, which contains general air quality planning requirements for areas designated as nonattainment. *See* Section 172(c). Subpart 4 itself contains specific planning and scheduling requirements for PM_{10} [4] nonattainment areas, and under the Court's January 4, 2013 decision in *NRDC* v. *EPA,* these same statutory requirements also apply for $PM_{2.5}$ nonattainment areas. EPA has longstanding general guidance that interprets the 1990 amendments to the CAA, making recommendations to states for meeting the statutory requirements for SIPs for nonattainment areas. *See,* ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clear Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992) (the ''General Preamble''). In the General Preamble, EPA discussed the relationship of subpart 1 and subpart 4 SIP requirements, and pointed out that subpart 1 requirements were to an extent ''subsumed by, or integrally related to, the more specific PM–10 requirements.'' 57 FR 13538 (April 16, 1992). EPA's previously published proposal for this redesignation action addressed how the Indianapolis area meets the requirements for redesignation under subpart 1. These subpart 1 requirements include, among other things, provisions for attainment demonstrations, reasonably available control measures (RACM), reasonable further progress (RFP), emissions inventories, and contingency measures.

For the purposes of this redesignation, in order to identify any additional requirements which would apply under subpart 4, we are considering the Indianapolis area to be a ''moderate'' $PM_{2.5}$ nonattainment area. Under section 188 of the CAA, all areas designated nonattainment areas under subpart 4 would initially be classified by operation of law as ''moderate'' nonattainment areas, and would remain moderate nonattainment areas unless and until EPA reclassifies the area as a ''serious'' nonattainment area.[5] Accordingly, EPA believes that it is appropriate to limit the evaluation of the potential impact of subpart 4 requirements to those that would be applicable to moderate nonattainment areas. Sections 189(a) and (c) of subpart 4 apply to moderate nonattainment areas and include the following: (1) An approved permit program for construction of new and modified major stationary sources (section 189(a)(1)(A)); (2) an attainment demonstration (section 189(a)(1)(B)); (3) provisions for RACM (section 189(a)(1)(C)); and (4) quantitative milestones demonstrating RFP toward attainment by the applicable attainment date (section 189(c)).

The permit requirements of subpart 4, as contained in section 189(a)(1)(A), refer to and apply the subpart 1 permit provisions requirements of sections 172 and 173 to PM_{10}, without adding to them. Consequently, EPA believes that section 189(a)(1)(A) does not itself impose for redesignation purposes any additional requirements for moderate areas beyond those contained in subpart 1.[6] In any event, in the context of redesignation, EPA has long relied on the interpretation that a fully approved nonattainment new source review program is not considered an applicable requirement for redesignation, provided the area can maintain the standard with a prevention of significant deterioration (PSD) program after redesignation. A detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' *See also* rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996).

With respect to the specific attainment planning requirements under subpart 4,[7] when EPA evaluates a redesignation request under either subpart 1 and/or 4, any area that is attaining the $PM_{2.5}$ standard is viewed as having satisfied the attainment planning requirements for these subparts. For redesignations, EPA has for many years interpreted attainment-linked requirements as not applicable for areas attaining the standard. In the General Preamble, EPA stated that:

> The requirements for RFP will not apply in evaluating a request for redesignation to attainment since, at a minimum, the air quality data for the area must show that the area has already attained. Showing that the State will make RFP towards attainment will, therefore, have no meaning at that point.

''General Preamble for the Interpretation of Title I of the Clean Air Act Amendments of 1990''; (57 FR 13498, 13564, April 16, 1992).

The General Preamble also explained that

> [t]he section 172(c)(9) requirements are directed at ensuring RFP and attainment by the applicable date. These requirements no longer apply when an area has attained the standard and is eligible for redesignation. Furthermore, section 175A for maintenance plans * * * provides specific requirements for contingency measures that effectively supersede the requirements of section 172(c)(9) for these areas.

Id.

EPA similarly stated in its 1992 Calcagni memorandum that, ''The requirements for reasonable further progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard.''

It is evident that even if we were to consider the Court's January 4, 2013 decision in *NRDC* v. *EPA* to mean that attainment-related requirements specific to subpart 4 should be imposed retroactively [8] and thus are now past due, those requirements do not apply to an area that is attaining the 1997 $PM_{2.5}$ standard, for the purpose of evaluating a pending request to redesignate the area to attainment. EPA has consistently enunciated this interpretation of applicable requirements under section 107(d)(3)(E) since the General Preamble

[4] PM_{10} refers to particulates nominally 10 micrometers in diameter or smaller.

[5] Section 188(a) also provides that EPA publish a notice announcing the classification of each area under subpart 4.

[6] The potential effect of section 189(e) on section 189(a)(1)(A) for purposes of evaluating this redesignation is discussed below.

[7] I.e., attainment demonstration, RFP, RACM, milestone requirements, contingency measures.

[8] As EPA has explained above, we do not believe that the Court's January 4, 2013 decision should be interpreted so as to impose these requirements on the states retroactively. *Sierra Club* v. *Whitman, supra.*

was published more than twenty years ago. Courts have recognized the scope of EPA's authority to interpret ''applicable requirements'' in the redesignation context. *See Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004).

Moreover, even outside the context of redesignations, EPA has viewed the obligations to submit attainment-related SIP planning requirements of subpart 4 as inapplicable for areas that EPA determines are attaining the standard. EPA's prior ''Clean Data Policy'' rulemakings for the PM_{10} NAAQS, also governed by the requirements of subpart 4, explain EPA's reasoning. They describe the effects of a determination of attainment on the attainment-related SIP planning requirements of subpart 4. *See* ''Determination of Attainment for Coso Junction Nonattainment Area,'' (75 FR 27944, May 19, 2010). *See also* Coso Junction proposed PM_{10} redesignation, (75 FR 36023, 36027, June 24, 2010); Proposed and Final Determinations of Attainment for San Joaquin Nonattainment Area (71 FR 40952, 40954–55, July 19, 2006; and 71 FR 63641, 63643–47 October 30, 2006). In short, EPA in this context has also long concluded that to require states to meet superfluous SIP planning requirements is not necessary and not required by the CAA, so long as those areas continue to attain the relevant NAAQS.

In its September 27, 2011 proposal for this action, EPA proposed to determine that the Indianapolis area has attained the 1997 $PM_{2.5}$ standard and therefore meets the attainment–related plan requirements of subpart 1. Under its longstanding interpretation, EPA is proposing to determine here that the area also meets the attainment-related plan requirements of subpart 4.

Thus, EPA is proposing to conclude that the requirements to submit an attainment demonstration under 189(a)(1)(B), a RACM determination under section 172(c) and section 189(a)(1)(c), and a RFP demonstration under 189(c)(1) are satisfied for purposes of evaluating the redesignation request.

c. Subpart 4 and Control of $PM_{2.5}$ Precursors

The D.C. Circuit in *NRDC* v. *EPA* remanded to EPA the two rules at issue in the case with instructions to EPA to re-promulgate them consistent with the requirements of subpart 4. The Court's opinion raises the issue of the appropriate approach to addressing $PM_{2.5}$ precursors in this and future EPA actions. While past implementation of subpart 4 for PM_{10} has allowed for control of PM_{10} precursors such as NO_X from major stationary, mobile, and area sources in order to attain the standard as expeditiously as practicable, CAA section 189(e) specifically provides that control requirements for major stationary sources of direct PM_{10} shall also apply to PM_{10} precursors from those sources, except where EPA determines that major stationary sources of such precursors ''do not contribute significantly to PM_{10} levels which exceed the standard in the area.''

EPA's 1997 $PM_{2.5}$ implementation rule, remanded by the D.C. Circuit, contained rebuttable presumptions concerning certain $PM_{2.5}$ precursors applicable to attainment plans and control measures related to those plans. Specifically, in 40 CFR 51.1002, EPA provided, among other things, that a state was ''not required to address VOC [and ammonia] as * * * $PM_{2.5}$ attainment plan precursor[s] and to evaluate sources of VOC [and ammonia] emissions in the State for control measures.'' EPA intended these to be rebuttable presumptions. EPA established these presumptions at the time because of uncertainties regarding the emission inventories for these pollutants and the effectiveness of specific control measures in various regions of the country in reducing $PM_{2.5}$ concentrations. EPA also left open the possibility for such regulation of VOC and ammonia in specific areas where that was necessary.

The Court in its January 4, 2013 decision made reference to both section 189(e) and 40 CFR 51. 1002, and stated that, ''In light of our disposition, we need not address the petitioners' challenge to the presumptions in [40 CFR 51.1002] that volatile organic compounds and ammonia are not $PM_{2.5}$ precursors, as subpart 4 expressly governs precursor presumptions.'' *NRDC* v. *EPA,* at 27, n.10.

Elsewhere in the Court's opinion, however, the Court observed:

> Ammonia is a precursor to fine particulate matter, making it a precursor to both $PM_{2.5}$ and PM_{10}. For a PM_{10} nonattainment area governed by subpart 4, a precursor is presumptively regulated. See 42 U.S.C. § 7513a(e) [section 189(e)].

Id. at 21, n.7.

For a number of reasons, EPA believes that the Court's decision on this aspect of subpart 4 does not preclude EPA's approval of Indiana's redesignation request for the 1997 $PM_{2.5}$ NAAQS. First, while the Court, citing section 189(e), stated that ''for a PM_{10} area governed by subpart 4, a precursor is 'presumptively regulated,''' the Court expressly declined to decide the specific challenge to EPA's 1997 $PM_{2.5}$ implementation rule provisions regarding ammonia and VOC as precursors. The Court had no occasion to reach whether and how it was substantively necessary to regulate any specific precursor in a particular $PM_{2.5}$ nonattainment area, and did not address what might be necessary for purposes of acting upon a redesignation request.

However, even if EPA takes the view that the requirements of subpart 4 were deemed applicable at the time the state submitted the redesignation request, and disregards the implementation rule's rebuttable presumptions regarding ammonia and VOC as $PM_{2.5}$ precursors, the regulatory consequence would be to consider the need for regulation of all precursors from any sources in the area to demonstrate attainment and to apply the section 189(e) provisions to major stationary sources of precursors. In the case of Indianapolis, EPA believes that doing so would not affect the approvability of the proposed redesignation of the area for the 1997 $PM_{2.5}$ standard. Indianapolis has attained the standard without any specific additional controls of VOC and ammonia emissions from any sources in the area.

Precursors in subpart 4 are specifically regulated under the provisions of section 189(e), which requires, with important exceptions, control requirements for major stationary sources of PM_{10} precursors.[9] Under subpart 1 and EPA's prior implementation rule, all major stationary sources of $PM_{2.5}$ precursors were subject to regulation, with the exception of ammonia and VOC. Thus we must address here whether additional controls of ammonia and VOC from major stationary sources are required under section 189(e) of subpart 4 in order to redesignate the Indianapolis area for the 1997 $PM_{2.5}$ standard. As explained below, we do not believe that any additional controls of ammonia and VOC are required in the context of this redesignation.

In the General Preamble, EPA discusses its approach to implementing section 189(e). *See* 57 FR 13538–13542. With regard to precursor regulation under section 189(e), the General Preamble explicitly stated that control of VOCs under other Act requirements may suffice to relieve a state from the need to adopt precursor controls under section 189(e). 57 FR 13542. EPA in this supplemental proposal proposes to

[9] Under either subpart 1 or subpart 4, for purposes of demonstrating attainment as expeditiously as practicable, a state is required to evaluate all economically and technologically feasible control measures for direct PM emissions and precursor emissions, and adopt those measures that are deemed reasonably available.

determine that the Indiana SIP has met the provisions of section 189(e) with respect to ammonia and VOCs as precursors. This proposed supplemental determination is based on our findings that (1) the Indianapolis area contains no major stationary sources of ammonia, and (2) existing major stationary sources of VOC are adequately controlled under other provisions of the CAA regulating the ozone NAAQS.[10] In the alternative, EPA proposes to determine that, under the express exception provisions of section 189(e), and in the context of the redesignation of the Indianapolis area, which is attaining the 1997 annual $PM_{2.5}$ standard, at present ammonia and VOC precursors from major stationary sources do not contribute significantly to levels exceeding the 1997 $PM_{2.5}$ standard in the Indianapolis area. *See* 57 FR 13539–13542.

EPA notes that its 1997 $PM_{2.5}$ implementation rule provisions in 40 CFR 51.1002 were not directed at evaluation of $PM_{2.5}$ precursors in the context of redesignation, but at SIP plans and control measures required to bring a nonattainment area into attainment of the 1997 $PM_{2.5}$ NAAQS. By contrast, redesignation to attainment primarily requires the area to have already attained due to permanent and enforceable emission reductions, and to demonstrate that controls in place can continue to maintain the standard. Thus, even if we regard the Court's January 4, 2013 decision as calling for ''presumptive regulation'' of ammonia and VOC for $PM_{2.5}$ under the attainment planning provisions of subpart 4, those provisions in and of themselves do not require additional controls of these precursors for an area that already qualifies for redesignation. Nor does EPA believe that requiring Indiana to address precursors differently than they have already would result in a substantively different outcome.

Although, as EPA has emphasized, its consideration here of precursor requirements under subpart 4 is in the context of a redesignation to attainment, EPA's existing interpretation of subpart 4 requirements with respect to precursors in attainment plans for PM_{10} contemplates that states may develop attainment plans that regulate only those precursors that are necessary for purposes of attainment in the area in question, i.e., states may determine that only certain precursors need be regulated for attainment and control purposes.[11] Courts have upheld this approach to the requirements of subpart 4 for PM_{10}.[12] EPA believes that application of this approach to $PM_{2.5}$ precursors under subpart 4 is reasonable. Because the Indianapolis area has already attained the 1997 $PM_{2.5}$ NAAQS with its current approach to regulation of $PM_{2.5}$ precursors, EPA believes that it is reasonable to conclude in the context of this redesignation that there is no need to revisit the attainment control strategy with respect to the treatment of precursors. Even if the Court's decision is construed to impose an obligation, in evaluating this redesignation request, to consider additional precursors under subpart 4, it would not affect EPA's approval here of Indiana's request for redesignation of the Indianapolis area. In the context of a redesignation, the area has shown that it has attained the standard. Moreover, the state has shown and EPA has proposed to determine that attainment in this area is due to permanent and enforceable emissions reductions on all precursors necessary to provide for continued attainment. It follows logically that no further control of additional precursors is necessary. Accordingly, EPA does not view the January 4, 2013 decision of the Court as precluding redesignation of the Indianapolis area to attainment for the 1997 $PM_{2.5}$ NAAQS at this time.

In sum, even if Indiana were required to address precursors for the Indianapolis area under subpart 4 rather than under subpart 1, as interpreted in EPA's remanded $PM_{2.5}$ implementation rule, EPA would still conclude that the area had met all applicable requirements for purposes of redesignation in accordance with section 107(d)(3(E)(ii) and (v).

d. Maintenance Plan and Evaluation of Precursors

With regard to the redesignation of Indianapolis, in evaluating the effect of the Court's remand of EPA's implementation rule, which included presumptions against consideration of VOC and ammonia as $PM_{2.5}$ precursors, EPA in this supplemental proposal is also considering the impact of the decision on the maintenance plan required under sections 175A and 107(d)(3)(E)(iv). To begin with, EPA notes that the area has attained the 1997 $PM_{2.5}$ standard and that the state has shown that attainment of that standard is due to permanent and enforceable emission reductions.

In its prior proposal notice for this action, EPA proposed to determine that the State's maintenance plan shows continued maintenance of the standard by tracking the levels of the precursors whose control brought about attainment of the 1997 $PM_{2.5}$ standard in the Indianapolis area. EPA therefore believes that the only additional consideration related to the maintenance plan requirements that results from the Court's January 4, 2013 decision is that of assessing the potential role of VOC and ammonia in demonstrating continued maintenance in this area. As explained below, based upon documentation provided by the State and supporting information, EPA believes that the maintenance plan for the Indianapolis area need not include any additional emission reductions of VOC or ammonia in order to provide for continued maintenance of the standard.

First, as noted above in EPA's discussion of section 189(e), VOC emission levels in this area have historically been well-controlled under SIP requirements related to ozone and other pollutants. Second, total ammonia emissions throughout the Indianapolis area are very low, estimated to be less than 4,000 tons per year. *See* Table 4 below. This amount of ammonia emissions appears especially small in comparison to the total amounts of SO_2, NO_X, and even direct $PM_{2.5}$ emissions from sources in the area. Third, as described below, available information shows that no precursor, including VOC and ammonia, is expected to increase over the maintenance period so as to interfere with or undermine the State's maintenance demonstration.

Indiana's maintenance plan shows that emissions of direct $PM_{2.5}$, SO_2, and NO_X are projected to decrease by 1,048 tons per year (tpy), 11,301 tpy, and 39,894 tpy, respectively, over the maintenance period. *See* Tables 1–3 below. In addition, emissions inventories used in the regulatory impact analysis (RIA) for the 2012 $PM_{2.5}$ NAAQS show that VOC and ammonia emissions are projected to decrease by 14,551 tpy and 99 tpy, respectively between 2007 and 2020. *See* Table 4 below. While the RIA emissions inventories are only projected out to 2020, there is no reason to believe that this downward trend would not continue through 2025. Given that the Indianapolis area is already attaining the 1997 $PM_{2.5}$ NAAQS even with the

[10] The Indianapolis area has reduced VOC emissions through the implementation of various control programs including VOC Reasonably Available Control Technology regulations and various on-road and non-road motor vehicle control programs.

[11] *See, e.g.,* ''Approval and Promulgation of Implementation Plans for California—San Joaquin Valley PM-10 Nonattainment Area; Serious Area Plan for Nonattainment of the 24-Hour and Annual PM-10 Standards,'' 69 FR 30006 (May 26, 2004) (approving a PM_{10} attainment plan that impose controls on direct PM_{10} and NO_X emissions and did not impose controls on SO_2, VOC, or ammonia emissions).

[12] *See, e.g., Assoc. of Irritated Residents* v. *EPA et al.,* 423 F.3d 989 (9th Cir. 2005).

current level of emissions from sources in the area, the downward trend of emissions inventories would be consistent with continued attainment. Indeed, projected emissions reductions for the precursors that the State is addressing for purposes of the 1997 $PM_{2.5}$ NAAQS indicate that the area should continue to attain the NAAQS following the precursor control strategy that the state has already elected to pursue. Even if VOC and ammonia emissions were to increase unexpectedly between 2020 and 2025, the overall emissions reductions projected in direct $PM_{2.5}$, SO_2, and NO_X would be sufficient to offset any increases. For these reasons, EPA believes that local emissions of all of the potential $PM_{2.5}$ precursors will not increase to the extent that they will cause monitored $PM_{2.5}$ levels to violate the 1997 $PM_{2.5}$ standard during the maintenance period.

TABLE 1—COMPARISON OF 2008, 2015, 2020, AND 2025 DIRECT $PM_{2.5}$ EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE INDIANAPOLIS AREA

Sector	Direct $PM_{2.5}$				
	2008	2015	2020	2025	Net change 2008–2025
Point	843	823	806	790	−53
EGU [13]	1,966	2,568	2,568	2,568	601
Area	85	82	79	76	−9
Nonroad	805	538	384	282	−524
On-road [14]	1,464	742	571	400	−1,064
Total	5,164	4,753	4,408	4,116	−1,048

TABLE 2—COMPARISON OF 2008, 2015, 2020, AND 2025 SO_2 EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE INDIANAPOLIS AREA

Sector	SO_2				
	2008	2015	2020	2025	Net change 2008–2025
Point	2,416	1,632	1,605	1,579	−837
EGU	38,027	28,315	28,314	28,314	−9,713
Area	1,830	1,778	1,732	1,687	−143
Nonroad	576	166	89	57	−519
On-road [15]	654	498	532	565	88
Total	43,503	32,389	32,272	32,202	−11,301

TABLE 3—COMPARISON OF 2008, 2015, 2020, AND 2025 NO_X EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE INDIANAPOLIS AREA

Sector	NO_X				
	2008	2015	2020	2025	Net change 2008–2025
Point	6,259	6,268	6,183	6,099	−161
EGU	7,184	6,865	6,864	6,863	−321
Area	4,886	4,809	4,727	4,646	−240
Nonroad	10,954	7,147	4,961	3,545	−7,409
On-road [14]	43,389	22,013	16,819	11,625	−31,76
Total	72,672	47,101	39,554	32,778	−39,894

[13] Electric generating units.

[14] Emissions projections for the on-road sector were generated using the MOVES model. Indiana submitted the MOVES based NO_X and direct $PM_{2.5}$ emissions projections and MVEBs for the on-road sector on January 17, 2013, to replace the MOBILE6.2 based on-road emissions projections and MVEBs submitted as part of the maintenance plan.

[15] On-road sector emissions were projected using the MOBILE6.2 emissions model.

TABLE 4—COMPARISON OF 2007 AND 2020 VOC AND AMMONIA EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE INDIANAPOLIS AREA [16]

Sector	VOC			Ammonia		
	2007	2020	Net change 2007–2020	2007	2020	Net change 2007–2020
Point	1,699	1,716	17	58	68	10
Area	27,618	27,516	−102	3,056	3,198	142
Nonroad	7,114	4,121	−2,993	11	14	3
On-road	17,972	6,499	−11,473	636	382	−254
Fires	113	113	0	8	8	0
Total	54,516	39,965	−14,551	3,769	3,670	−99

In addition, available air quality modeling analyses show continued maintenance of the standard during the maintenance period. The current air quality design value for the area is 13.1 micrograms per cubic meter (μg/m³) (based on 2009–11 air quality data), which is well below the 1997 annual $PM_{2.5}$ NAAQS of 15 μg/m³. Moreover, the modeling analysis conducted for the RIA for the 2012 $PM_{2.5}$ NAAQS indicates that the design value for this area is expected to continue to decline through 2020. In the RIA analysis, the 2020 modeled design value for the Indianapolis area is 10.4 μg/m³. Given that precursor emissions are projected to decrease through 2025, it is reasonable to conclude that monitored $PM_{2.5}$ levels in this area will also continue to decrease through 2025.

Thus, EPA believes that there is ample justification to conclude that the Indianapolis area should be redesignated, even taking into consideration the emissions of other precursors potentially relevant to $PM_{2.5}$. After consideration of the D.C. Circuit's January 4, 2013 decision, and for the reasons set forth in this supplemental notice, EPA continues to propose approval of the State of Indiana's maintenance plan and its request to redesignate the Indianapolis area to attainment for the 1997 $PM_{2.5}$ annual standard.

C. Ammonia and VOC Comprehensive Emissions Inventories

EPA in this supplemental proposal also addresses the State of Indiana's supplemental submission that provides additional information concerning ammonia and VOC emissions in the Indianapolis area in order to meet the emissions inventory requirement of CAA section 172(c)(3). Section 172(c)(3) of the CAA requires states to submit a comprehensive, accurate, and current emissions inventory for a nonattainment area. For purposes of the $PM_{2.5}$ NAAQS, this emissions inventory should address not only direct emissions of $PM_{2.5}$, but also emissions of all precursors with the potential to participate in $PM_{2.5}$ formation, i.e., SO_2, NO_X, VOC and ammonia.

In the September 27, 2011 proposed rule, EPA proposed to approve the emissions inventory information for direct $PM_{2.5}$, NO_X, and SO_2 submitted by IDEM as meeting the emissions inventory requirement for the Indianapolis area. On March 18, 2013, IDEM supplemented its submittal with 2007/2008 emissions inventories for ammonia and VOC. The additional emissions inventory information provided by the State addresses emissions of VOC and ammonia from the general source categories of point sources, area sources, on-road mobile sources, and nonroad mobile sources. The state-submitted emissions inventories were based upon information generated by the Lake Michigan Air Directors Consortium (LADCO) in conjunction with its member states and are presented in Table 5 below.

LADCO ran the EMS model using data provided by the State of Indiana to generate point source emissions estimates. The point source data supplied by the state was obtained from Indiana's source facility emissions reporting.

For area sources, LADCO ran the EMS model using the 2008 National Emissions Inventory (NEI) data provided by Indiana. LADCO followed Eastern Regional Technical Advisory Committee (ERTAC) recommendations on area sources when preparing the data. Agricultural ammonia emissions were not taken from NEI; instead emissions were based on Carnegie Mellon University's Ammonia Emission Inventory for the Continental United States (CMU). Specifically, the CMU 2002 annual emissions were grown to reflect 2007 conditions. A process-based ammonia emissions model developed for LADCO was then used to develop temporal factors to reflect the impact of average meteorology on livestock emissions.

Non-road mobile source emissions were generated using the NMIM2008 emissions model. LADCO also accounted for three other non-road categories not covered by the NMIM model: commercial marine vessels, aircraft, and railroads. Marine emissions were based on reports prepared by Environ entitled ''LADCO Nonroad Emissions Inventory Project for Locomotive, Commercial Marine, and Recreational Marine Emission Sources, Final Report, December 2004'' and ''LADCO 2005 Commercial Marine Emissions, Draft, March 2, 2007.'' Aircraft emissions were provided by Indiana and calculated using AP–42 emission factors and landing and take-off data provided by the Federal Aviation Administration. Rail emissions were based on the 2008 inventory developed by ERTAC.

On-road mobile source emissions were generated using EPA's MOVES2010a emissions model.

EPA notes that the emissions inventory developed by LADCO is documented in ''Regional Air Quality Analyses for Ozone, $PM_{2.5}$, and Regional Haze: Base C Emissions Inventory'' (September 12, 2011).

TABLE 5—INDIANAPOLIS AREA AMMONIA AND VOC EMISSIONS (TPY) FOR 2007/2008 BY SOURCE SECTOR

Sector	Ammonia	VOC
Point	41.73	1,284.14
Area	3,139.54	27,646.25
Non-road	10.51	8,277.20
On-road	685.41	21,866.66
Total	3,877.19	59,074.25

EPA has concluded that the 2007/2008 ammonia and VOC emissions

[16] These emissions estimates were taken from the emissions inventories developed for the RIA for the 2012 $PM_{2.5}$ NAAQS.

inventories provided by the State are complete and as accurate as possible given the input data available for the relevant source categories. EPA also believes that these inventories provide information about VOC and ammonia as $PM_{2.5}$ precursors in the context of evaluating redesignation of the Indianapolis area under subpart 4. Therefore, we are proposing to approve the ammonia and VOC emissions inventories submitted by the State, in conjunction with the NO_X, direct $PM_{2.5}$, and SO_2 emissions inventories that EPA previously proposed to approve, as fully meeting the comprehensive inventory requirement of section 172(c)(3) of the CAA for the Indianapolis area for the 1997 annual $PM_{2.5}$ standard. Since EPA's prior proposal addressed other precursor emissions inventories, EPA in this supplemental proposal is seeking comment only with respect to the additional inventories for VOC and ammonia that Indiana has submitted.

D. MVEBs

1. How are MVEBs developed and what are the MVEBs for the Indianapolis area?

On January 17, 2013, Indiana submitted to EPA a request to revise its maintenance plan for the Indianapolis area by replacing the previously submitted MOBILE6.2 based MVEBs with budgets developed using EPA's MOVES 2010a emissions model.

Under the CAA, states are required to submit, at various times, control strategy SIP revisions and maintenance plans for nonattainment areas and for areas seeking redesignation to attainment for a given NAAQS. These emission control strategy SIP revisions (*e.g.,* RFP and attainment demonstration SIP revisions) and maintenance plans create MVEBs based on on-road mobile source emissions for the relevant criteria pollutants and/or their precursors, where appropriate, to address pollution from on-road transportation sources. The MVEBs are the portions of the total allowable emissions that are allocated to on-road vehicle use that, together with emissions from all other sources in the area, will provide for attainment, RFP, or maintenance, as applicable. The budget serves as a ceiling on emissions from an area's planned transportation system. Under 40 CFR part 93, a MVEB for an area seeking a redesignation to attainment is established for the last year of the maintenance plan. See the September 27, 2011 notice of direct final approval for a more complete discussion of MVEBs. (76 FR 59512).

EPA's substantive criteria for determining the adequacy of MVEBs are set out in 40 CFR 93.118(e)(4). Additionally, to approve a motor vehicle emissions budget, EPA must complete a thorough review of the SIP, in this case the $PM_{2.5}$ maintenance plan, and conclude that with the projected level of motor vehicle and all other emissions, the SIP will achieve its overall purpose, in this case providing for maintenance of the 1997 annual $PM_{2.5}$ standard.

EPA's process for determining adequacy of a MVEB consists of three basic steps: (1) Providing public notification of a SIP submission; (2) providing the public the opportunity to comment on the MVEB during a public comment period; and, (3) EPA taking action on the MVEB. The process for determining the adequacy of submitted SIP MVEBs is codified at 40 CFR 93.118.

The maintenance plan revision submitted by Indiana for the Indianapolis area contains primary $PM_{2.5}$ and NO_X MVEBs for the area for the years 2015 and 2025.

IDEM has determined the 2015 MVEBs for the Indianapolis area to be 853.76 tpy for primary $PM_{2.5}$ and 25,314.49 tpy for NO_X. IDEM has determined the 2025 MVEBs for the Indianapolis area to be 460.18 tpy for primary $PM_{2.5}$ and 13,368.60 tpy for NO_X. These MVEBs exceed the on-road mobile source primary $PM_{2.5}$ and NO_X emissions projected by IDEM for 2015 and 2025, as summarized in Table 6 below. IDEM decided to include ''safety margins'' as provided for in 40 CFR 93.124(a) (described further below) of 111.36 tpy and 60.02 tpy for primary $PM_{2.5}$ and 3,301.89 tpy and 1,743.73 tpy for NO_X in the 2015 and 2025 MVEBs, respectively, to provide for on-road mobile source growth. Indiana did not provide emission budgets for SO_2, VOC, and ammonia because it concluded, consistent with the presumptions regarding these precursors in the conformity rule at 40 CFR 93.102(b)(2)(v), which predated and was not disturbed by the litigation on the $PM_{2.5}$ implementation rule, that emissions of these precursors from motor vehicles are not significant contributors to the area's $PM_{2.5}$ air quality problem.

EPA issued conformity regulations to implement the 1997 $PM_{2.5}$ NAAQS in July 2004 and May 2005 (69 FR 40004, July 1, 2004 and 70 FR 24280, May 6, 2005, respectively). Those actions were not part of the final rule recently remanded to EPA by the Court of Appeals for the District of Columbia in *NRDC* v. *EPA,* No. 08–1250 (Jan. 4, 2013), in which the Court remanded to EPA the implementation rule for the $PM_{2.5}$ NAAQS because it concluded that EPA must implement that NAAQS pursuant to the PM-specific implementation provisions of subpart 4 of Part D of Title I of the CAA, rather than solely under the general provisions of subpart 1. That decision does not affect EPA's proposed approval of the Indianapolis MVEBs.

First, as noted above, EPA's conformity rule implementing the 1997 $PM_{2.5}$ NAAQS was a separate action from the overall $PM_{2.5}$ implementation rule addressed by the Court and was not considered or disturbed by the decision. Therefore, the conformity regulations were not at issue in *NRDC* v. *EPA.*[17] In addition, as discussed in section III.B., the Indianapolis area is attaining the 1997 annual standard for $PM_{2.5}$ with a 2009–2011 design value of 13.1 $\mu g/m^3$, which is well below the annual $PM_{2.5}$ NAAQS of 15 $\mu g/m^3$. The modeling analysis conducted for the RIA for the 2012 p.m. NAAQS indicates that the design value for this area is expected to continue to decline through 2020. Further, the State's maintenance plan shows continued maintenance through 2025 by demonstrating that NO_X, SO_2, and direct $PM_{2.5}$ emissions continue to decrease through the maintenance period. For VOC and ammonia, RIA inventories for 2007 and 2020 show that both on-road and total emissions for these pollutants are expected to decrease, supporting the state's conclusion, consistent with the presumptions regarding these precursors in the conformity rule, that emissions of these precursors from motor vehicles are not significant contributors to the area's $PM_{2.5}$ air quality problem and the MVEBs for these precursors are unnecessary. With regard to SO_2, the 2005 final conformity rule (70 FR 24280) based its presumption concerning on-road SO_2 motor vehicle emissions budgets on emissions inventories that show that SO_2 emissions from on-road sources constitute a ''de minimis'' portion of total SO_2 emissions. As shown elsewhere in this supplemental proposal, on-road emissions in 2025 are less than 2% of total SO_2 emissions in the area. While on-road SO_2 emissions reach a low point in 2015 and gradually begin to increase, these increases are small in the context of the entire SO_2

[17] The 2004 rulemaking addressed most of the transportation conformity requirements that apply in $PM_{2.5}$ nonattainment and maintenance areas. The 2005 conformity rule included provisions addressing treatment of $PM_{2.5}$ precursors in MVEBs. *See* 40 CFR 93.102(b)(2). While none of these provisions were challenged in the NRDC case, EPA also notes that the Court declined to address challenges to EPA's presumptions regarding $PM_{2.5}$ precursors in the $PM_{2.5}$ implementation rule. *NRDC* v. *EPA,* at 27, n. 10.

inventory and, even with those increases, the on-road emissions are lower in 2025 than in the base year. Moreover, the revised MVEBs simply update the budget calculations using MOVES, as explained above.

TABLE 6—ON-ROAD MOBILE SOURCE EMISSIONS ESTIMATES (TPY) AND BUDGETS

	NO_X			$PM_{2.5}$		
	Emissions estimate	Budget	Safety margin	Emissions estimate	Budget	Safety margin
2008	43,388.93	.....	.....	1,463.72	.....	.....
2015	22,012.60	25,314.49	3,301.89	742.40	853.76	111.36
2025	11624.87	13,368.60	1,743.73	400.16	460.18	60.02

2. What are safety margins?

A ''safety margin'' is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. As shown in Table 3, NO_X emissions in the Indianapolis area are projected to have safety margins of 25,571 tpy and 39,894 tpy in 2015 and 2025, respectively (the difference between the attainment year, 2008, emissions and the projected 2015 and 2025 emissions for all sources in the Indianapolis area). Table 1 shows direct $PM_{2.5}$ emissions in the Indianapolis area are projected to have a safety margin of 412 tpy and 1,048 tpy in 2015 and 2025, respectively. Even if emissions reached the full level of the safety margin, the area would still demonstrate maintenance since emission levels would equal those in the attainment year.

The transportation conformity rule allows areas to allocate all or a portion of a ''safety margin'' to the area's motor vehicle emissions budgets (40 CFR 92.124(a)). The MVEBs requested by IDEM contain NO_X and direct $PM_{2.5}$ safety margins for mobile sources in 2015 and 2025 smaller than the allowable safety margins reflected in the total emissions inventory for the Indianapolis area. Thus, the State is not requesting allocation to the MVEBs of the entire available safety margins reflected in the demonstration of maintenance. Therefore, even though the State has submitted MVEBs that exceed the projected on-road mobile source emissions for 2015 and 2025 contained in the demonstration of maintenance, the differences between the MVEBs and the projected on-road mobile source emissions are well within the safety margins of the $PM_{2.5}$ maintenance demonstration. Further, once allocated to mobile sources, these safety margins will not be available for use by other sources.

EPA has reviewed the submitted budgets for 2015 and 2025, including the added safety margins using the conformity rule's adequacy criteria found at 40 CFR 93.118(e)(4) and the conformity rule's requirements for safety margins found at 40 CFR 93.124(a). EPA has determined that the area can maintain attainment of the 1997 annual $PM_{2.5}$ NAAQS for the relevant maintenance period with on-road mobile source emissions at the levels of the MVEBs since total emissions will still remain under attainment year emission levels. EPA is therefore proposing to approve the MOVES based MVEBs submitted by Indiana for use in determining transportation conformity in the Indianapolis area.

IV. Summary of Proposed Actions

After fully considering the DC Circuit's decisions in *EME Homer City* on EPA's CSAPR rule, and *NRDC* v. *EPA* on EPA's 1997 $PM_{2.5}$ Implementation rule, EPA in this supplemental notice is proposing to proceed with approval of the request to redesignate the Indianapolis area to attainment for the 1997 annual $PM_{2.5}$ NAAQS and of the associated maintenance plan. In this supplemental notice, EPA is also proposing to approve the 2007/2008 ammonia and VOC emissions inventories as meeting, in conjunction with the NO_X, direct $PM_{2.5}$ and SO_2 inventories that EPA previously proposed to approve, the comprehensive emissions inventory requirements of section 172(c)(3) of the CAA. Finally, EPA is proposing to approve Indiana's MOVES-based NO_X and direct $PM_{2.5}$ MVEBs for 2015 and 2025 for the Indianapolis area for transportation conformity purposes. EPA is seeking comment only on the issues raised in its supplemental proposals, and is not re-opening comment on other issues addressed in its prior proposal.

V. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these proposed actions do not impose additional requirements beyond those imposed by state law and the CAA. For that reason, these proposed actions:

- Are not ''significant regulatory actions'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement

Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because a determination of attainment is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: March 28, 2013.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2013–08122 Filed 4–5–13; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R09–OAR–2013–0007; FRL–9798–3]

Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of California; PM_{10}; Redesignation of the South Coast Air Basin to Attainment; Approval of PM_{10} Redesignation Request and Maintenance Plan for the South Coast Air Basin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve, as a revision to the California state implementation plan, the State's request to redesignate the Los Angeles-South Coast Air Basin nonattainment area to attainment, which is currently designated serious nonattainment for the 1987 national ambient air quality standards for particulate matter of ten microns or less. EPA is also proposing to approve the PM_{10} maintenance plan and the associated motor vehicle emissions budgets for use in transportation conformity determinations necessary for the South Coast area. Finally, EPA is proposing to approve the attainment year emissions inventory. EPA is proposing these actions because the SIP revision meets the requirements of the Clean Air Act and EPA guidance for such plans and motor vehicle emissions budgets.

DATES: Any comments must be received on or before May 8, 2013.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2013–0007, by one of the following methods:

1. *http://www.regulations.gov.* Follow the on-line instructions.
2. *Email: tax.wienke@epa.gov.*
3. *Mail or Deliver:* Wienke Tax (Air-2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901. Deliveries are only accepted during the Regional Office's normal hours of operation.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or email. *http://www.regulations.gov* is an anonymous access system, and EPA will not know your identity or contact information unless you provide it in the body of your comment.

If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket and documents in the docket for this action are generally available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., voluminous records, copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Wienke Tax, U.S. Environmental Protection Agency, Air Planning Office, Region IX, (415) 947–4192, *tax.wienke@epa.gov.*

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

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I. Summary of Today's Proposed Action

EPA is proposing to take several related actions. Under Clean Air Act (CAA or ''the Act'') section 107(d)(3)(D), EPA is proposing to approve the State's request to redesignate the South Coast PM_{10} nonattainment area to attainment for the 24-hour PM_{10} NAAQS. We are doing so based on our conclusion that the area has met the five criteria for redesignation under CAA section 107(d)(3)(E): (1) That the area has attained the 24-hour PM_{10} NAAQS in the 2008–2010 time period and that the area continues to attain the PM_{10}

standard since that time; (2) that relevant portions of the California state implementation plan (SIP) are fully approved; (3) that the improvement in air quality is due to permanent and enforceable reductions in emissions; (4) that California has met all requirements applicable to the South Coast PM_{10} nonattainment area with respect to section 110 and part D of the CAA; and (5) that the *Final PM_{10} Redesignation Request and Maintenance Plan for the South Coast Air Basin* (December 2009) (''2009 South Coast PM_{10} Redesignation Request and Maintenance Plan'') [1] meets the requirements of section 175A of the CAA.

In addition, under CAA section 110(k)(3), EPA is proposing to approve the maintenance plan including the motor vehicle emissions budgets (budgets) in the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan as a revision to the California SIP. EPA finds that the maintenance demonstration shows how the area will continue to attain the 24-hour PM_{10} NAAQS for at least 10 years beyond redesignation (i.e., through 2030). Finally, EPA is proposing to approve the attainment year emissions inventory under CAA section 172(c)(3). EPA is proposing these actions because the SIP revision meets the requirements of the CAA and EPA guidance for such plans and budgets.

Finally, with this **Federal Register** notice, EPA is notifying the public that we will be reviewing the maintenance plan budgets for adequacy. This begins the public comment period on adequacy; see **DATES** section of this notice for the closing date of the comment period.

II. Background

A. The PM_{10} NAAQS

EPA sets the NAAQS for certain ambient air pollutants at levels required to protect public health and welfare. Particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers, or PM_{10}, is one of the ambient air pollutants for which EPA has established health-based standards.

EPA revised the NAAQS for particulate matter on July 1, 1987 (52 FR 24633), replacing standards for total suspended particulates (TSP less than 30 microns in diameter) with new standards applying only to particulate matter up to 10 microns in diameter (PM_{10}). At that time, EPA established two PM_{10} standards, an annual standard and a 24-hour standard. An area attains the 24-hour PM_{10} standard of 150 micrograms per cubic meter ($\mu g/m^3$) when the expected number of days per calendar year with a 24-hour concentration in excess of the standard (referred to as an exceedance), is equal to or less than one.[2] The annual PM_{10} standard is attained when the expected annual arithmetic mean of the 24-hour samples averaged over a 3-year period does not exceed 50 $\mu g/m^3$. See 40 CFR 50.6 and 40 CFR part 50, Appendix K.

On July 18, 1997, EPA established new national ambient air quality standards (NAAQS) for particulate matter less than 2.5 microns (fine particulate or $PM_{2.5}$). 62 FR 38652. In the 1997 PM NAAQS revision, EPA also revised the standards for PM_{10} but these revised PM_{10} standards were later vacated by the court, and the 1987 PM_{10} standards remain in effect.

In an October 17, 2006 PM NAAQS revision, the 24-hour PM_{10} standards were retained but the annual standards were revoked effective December 18, 2006. 71 FR 61144 (October 17, 2006). On January 13, 2013, EPA announced that it was again retaining the 24-hour PM_{10} NAAQS as a 24-hour standard of 150 micrograms per cubic meter ($\mu g/m^3$). See 78 FR 3086. This SIP submittal addresses the 24-hour PM_{10} standard as originally promulgated in 1987 and reaffirmed on January 13, 2013.

B. PM_{10} Planning Requirements

Once an area is designated nonattainment, section 188 of the CAA outlines the process for classification of the area and establishes the area's attainment date. In accordance with section 188(a), at the time of designation, all PM_{10} nonattainment areas, including the Los Angeles-South Coast Air Basin (''South Coast''),[3] were initially classified as moderate by operation of law. Section 188(b)(1) of the Act further provides that moderate areas can subsequently be reclassified as serious before the applicable moderate area attainment date if at any time EPA determines that the area cannot ''practicably'' attain the PM_{10} NAAQS by this attainment date.

On the date of enactment of the 1990 CAA Amendments, PM_{10} areas, including the South Coast, meeting the qualifications of section 107(d)(4)(B) of the amended Act, were designated nonattainment by operation of law. See 56 FR 11101 (March 15, 1991) and 40 CFR 81.305.

Direct PM_{10} emissions in the South Coast are dominated by reentrained road dust from paved and unpaved roads, construction and demolition, and on- and off-road mobile sources. Of these, according to the inventory in the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan, the majority of direct PM_{10} emissions come from reentrained road dust from paved roads. Within the South Coast air basin, in addition to being directly emitted into the atmosphere (e.g., primary particles), PM_{10} emissions can be formed through atmospheric chemical reactions from precursor gases (e.g., secondary particles). Secondary particles, such as sulfates, nitrates, and complex carbon compounds, are formed from reactions with oxides of sulfur (SO_X), oxides of nitrogen (NO_X), volatile organic compounds (VOCs), and ammonia (NH_3). The District includes emissions inventories in the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan for precursors of PM_{10} (notably NO_X, and to a lesser extent, SO_X and VOCs). The District estimates that 56% of the total mass of average peak concentrations of PM_{10} is attributable to $PM_{2.5}$ and 44% to coarse PM (fugitive dust or PM_{10}). See 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan, p. 5.

The 1990 CAA Amendments established new planning requirements and attainment deadlines for the NAAQS. The most fundamental of these nonattainment area provisions applicable to the South Coast is the requirement that the State submit a SIP demonstrating attainment of the PM_{10} NAAQS. This demonstration must be based upon enforceable measures to achieve emission reductions leading to emissions at or below the level predicted to result in attainment of the NAAQS throughout the nonattainment area. CAA section 189(a).

EPA determined on January 8, 1993, that the South Coast could not practicably attain the PM_{10} NAAQS by the applicable attainment deadline for moderate areas (December 31, 1994, per section 188(c)(1) of the Act), and reclassified the area as serious (58 FR 3334). In accordance with section 189(b)(1) of the Act, the State was required to make the following SIP

[1] See letter, James N. Goldstene, Executive Officer, to Jared Blumenfeld, Regional Administrator, EPA Region 9, dated April 28, 2010, with attachments.

[2] An exceedance is defined as a daily value that is above the level of the 24-hour standard, 150 $\mu g/m^3$, after rounding to the nearest 10 $\mu g/m^3$ (i.e., values ending in five or greater are to be rounded up). Thus, a recorded value of 154 $\mu g/m^3$ would not be an exceedance since it would be rounded to 150 $\mu g/m^3$; whereas, a recorded value of 155 $\mu g/m^3$ would be an exceedance since it would be rounded to 160 $\mu g/m^3$. See 40 CFR part 50, Appendix K, section 1.0.

[3] The South Coast air basin includes Orange County, the southwestern two-thirds of Los Angeles County, southwestern San Bernardino County, and western Riverside County (see 40 CFR 81.305).

submittals. First, the State had to submit by August 8, 1994, a SIP to ensure the implementation of best available control measures (BACM) no later than four years after reclassification, as required by CAA section 189(b)(1)(B). Second, the State had to submit a SIP by February 8, 1997, providing for progress and expeditious attainment, as required by CAA section 189(b)(1)(A). Because the State requested an extension of the attainment date for the South Coast beyond the applicable deadline of December 31, 2001, under CAA section 188(e) the State also had to demonstrate that the 1997 plan included the MSM that are included in any implementation plan or are achieved in practice, and can feasibly be implemented in the area.

C. PM_{10} Attainment Plans for the South Coast Area

Beginning in the 1970s and continuing to the present, the South Coast Air Quality Management District (SCAQMD) and CARB have adopted a number of rules and prepared a number of nonattainment plans to address planning requirements under the CAA. CARB submitted these rules and plans to EPA at various times, and EPA approved a number of them into the California SIP. Examples of rules adopted by SCAQMD and approved by EPA as revisions to the California SIP as part of the PM_{10} control strategy in the South Coast PM_{10} nonattainment area include: Rule 403—Fugitive Dust; Rule 1186—PM_{10} Emissions from Paved and Unpaved Roads, and Livestock Operations; Rule 1156—PM_{10} Emissions Reductions from Cement Manufacturing Facilities; and Rule 1157—PM_{10} Emissions Reductions from Aggregate and Related Operations. In addition, SCAQMD has adopted and implemented numerous rules that address PM_{10} precursors such as NO_X, VOCs, and SO_X.

CARB also adopted rules that reduce PM_{10} and PM_{10} precursor emissions. Examples of rules adopted by CARB and approved by EPA as revisions to the California SIP that have reduced PM_{10} or PM_{10} precursors in the South Coast PM_{10} nonattainment area include: California Code of Regulations (CCR) Title 13, Section 2025 (''Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and other Criteria Pollutants, from In-Use Heavy-Duty Diesel-Fueled Vehicles''); Section 2027 (''In-Use On-Road Diesel-Fueled Heavy-Duty Drayage trucks''); and Section 2262—California Reformulated Gasoline Phase 2 and Phase 3 Standards.

The SCAQMD has adopted and CARB has submitted a number of PM_{10} attainment plans and regulations for the South Coast PM_{10} nonattainment area. In 2003, EPA fully approved a PM_{10} attainment plan for the South Coast as meeting all CAA requirements for serious PM_{10} nonattainment areas, including BACM and MSM, and as part of that action we also granted attainment date extensions for the area for both the 24-hour and annual PM_{10} NAAQS, from December 31, 2001 to December 31, 2006, pursuant to CAA section 188(e). For more information on the 2003 approval of the South Coast PM_{10} plan, please see our proposed and final rulemaking notices. The proposal was issued on December 17, 2002 (67 FR 77212) and the final approval was issued on April 18, 2003 (68 FR 19316).

On August 1, 2003, the SCAQMD adopted the 2003 South Coast Air Quality Management Plan (''2003 South Coast AQMP''), including the motor vehicle emissions budgets for the areas. CARB approved the plans on October 23, 2003, and submitted the plans to us on January 9, 2004. We proposed to approve the portions of the 2003 South Coast AQMP relating to attainment of the PM_{10} standards on July 28, 2005 (see 70 FR 43663) and finalized our approval on November 14, 2005 (see 70 FR 69081).

III. Procedural Requirements for Adoption and Submittal of SIP Revisions

The SCAQMD adopted the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan on January 8, 2010 and forwarded it to CARB on January 15, 2010. CARB held a Board Hearing on March 25, 2010 to adopt the 2009 South Coast PM_{10} Maintenance Plan. The plan was submitted to EPA on April 28, 2010.[4]

CARB's SIP submittal includes the following documents: (1) April 28, 2010 letter to Jared Blumenfeld, Regional Administrator, U.S. EPA Region 9, from James N. Goldstene, Executive Officer, CARB transmitting the redesignation request and maintenance plan; (2) January 15, 2010 transmittal letter to James N. Goldstene, Executive Officer, CARB, from Elaine Chang, DrPH, Deputy Executive Officer, SCAQMD; (3) October 17, 2009 Proof of Publication of Public Notice for Public Hearing on ''*Final PM_{10} Redesignation Request and Maintenance Plan for the South Coast Air Basin (December 2009)*'' and the January 8, 2010 SCAQMD Board Hearing; (4) Transcripts of public hearings; (5) SCAQMD Board Resolution of Adoption 10–1 approving and adopting the 2009 South Coast PM_{10} Maintenance Plan; (6) CARB's February 17, 2010 Notice of Public Hearing for consideration of the adoption and approval of the 2009 South Coast PM_{10} Maintenance Plan and associated motor vehicle emissions budgets on March 25, 2010; (7) *Final PM_{10} Redesignation Request and Maintenance Plan for the South Coast Air Basin* (December 2009); (8) CARB Board Resolution 10–21 adopting the 2009 South Coast PM_{10} Maintenance Plan; and (9) motor vehicle emissions budgets adopted at the CARB Board hearing. All of these documents are available for review in the docket for today's proposed rule.

Sections 110(a)(1) and 110(l) of the Act require States to provide reasonable notice and public hearing prior to adoption of SIP revisions. CARB's submittal of the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan documents the public review process followed by SCAQMD in adopting the plan prior to transmittal to CARB for subsequent submittal to EPA as a revision to the California SIP. The documentation provides evidence that reasonable notice of a public hearing was provided to the public and that a public hearing was conducted prior to adoption. Specifically, notices for public workshops on December 15, 16, 17, and 18, 2009 and the January 8, 2010 SCAQMD Governing Board hearing were published on October 17 and 21, 2009. The Draft Plan was also made available for viewing on the District's Web site and at the District office on and after October 21, 2009.

Attachments 7 and 8 of the District's 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan submittal to CARB document the adoption of the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan by the SCAQMD Governing Board via Board Resolution 10–1. On January 8, 2010, the SCAQMD Governing Board approved the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan and directed SCAQMD staff to forward the plan to CARB, the Governor of California's designee for SIP matters. The motor vehicle emissions budgets contained in the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan were withdrawn prior to the SCAQMD Board adoption.

On February 17, 2010, the CARB Board noticed a public hearing for March 25, 2010 to consider and approve the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan and revised motor vehicle emissions budgets. On April 28, 2010, CARB submitted the 2009 South Coast

[4] See letter, James N. Goldstene, Executive Officer, to Jared Blumenfeld, Regional Administrator, EPA Region 9, dated April 28, 2010.

PM_{10} Redesignation Request and Maintenance Plan and budgets plus accompanying documentation to EPA for approval as a revision to the California SIP.[5]

Both the SCAQMD and CARB satisfied applicable statutory and regulatory requirements for reasonable public notice and hearing prior to adoption of the SIP revisions. The SCAQMD conducted numerous public workshops, and properly noticed the public hearing at which the plan was adopted. The SIP submittals include proof of publication for notices of the public hearings. Therefore, we conclude that the SIP submittals have met the public notice and involvement requirements of section 110(a)(1) of the CAA. Based on the documentation submitted with the plan, we find that the submittal of the South Coast PM_{10} Maintenance Plan as a SIP revision satisfies the procedural requirements of section 110(l) of the Act for revising SIPs.

CAA section 110(k)(1)(B) requires EPA to determine whether a SIP submittal is complete within 60 days of receipt. This section also provides that any plan that we have not affirmatively determined to be complete or incomplete will become complete six months after the day of submittal by operation of law. A completeness review allows us to determine if the submittal includes all the necessary items and information we need to act on it.

We make completeness determinations using criteria we have established in 40 CFR part 51, Appendix V. These criteria fall into two categories: Administrative information and technical support information. The administrative information provides documentation that the State has followed basic administrative procedures during the SIP-adoption process and thus we have a legally-adopted SIP revision in front of us. The technical support information provides us the information we need to determine the impact of the proposed revision on attainment and maintenance of the air quality standards.

We notify a state of our completeness determination by letter unless the submittal becomes complete by operation of law. A finding of completeness does not approve the submittal as part of the SIP nor does it indicate that the submittal is approvable. It does start a 12-month clock for EPA to act on the SIP submittal. See CAA section 110(k)(2). The 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan became complete by operation of law on October 28, 2010.

[5] *Ibid.*

IV. Substantive Requirements for Redesignation

The CAA establishes the requirements for redesignation of a nonattainment area to attainment. Specifically, section 107(d)(3)(E) allows for redesignation provided that the following criteria are met: (1) EPA determines that the area has attained the applicable NAAQS; (2) EPA has fully approved the applicable implementation plan for the area under section 110(k); (3) EPA determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP, applicable federal air pollution control regulations, and other permanent and enforceable reductions; (4) EPA has a fully-approvable maintenance plan for the area meeting the requirements of CAA section 175A; and (5) the State containing such area has met all requirements applicable to the area under section 110 and part D of the CAA.

EPA provided guidance on redesignations in a document entitled, ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' published in the **Federal Register** on April 16, 1992 (57 FR 13498), and supplemented on April 28, 1992 (57 FR 18070) (referred to herein as the ''General Preamble''). Other relevant EPA guidance documents include: ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards, September 4, 1992 (referred to herein as the ''Calcagni memo''); ''State Implementation Plans for Serious PM_{10} Nonattainment Areas, and Attainment Date Waivers for PM_{10} Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of title I of the Clean Air Act Amendments of 1990,'' 59 FR 41998 (August 16, 1994) (PM_{10} Addendum); and ''Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994 (Nichols Memo).

In this proposed rulemaking action, EPA applies these policies to the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan, taking into consideration the specific factual issues presented. For the reasons set forth in section V of this document, we propose to approve CARB's request for redesignation of the South Coast PM_{10} nonattainment area to attainment for the 24-hour PM_{10} NAAQS based on our conclusion that all of the criteria under CAA section 107(d)(3)(E) have been satisfied.

V. Evaluation of the State's Redesignation Request for the South Coast PM_{10} Nonattainment Area

A. Determination That the Area Has Attained the PM_{10} NAAQS

CAA section 107(d)(3)(E)(i) requires that we determine that the area has attained the NAAQS. Generally, EPA determines whether an area's air quality is meeting the 24-hour PM_{10} NAAQS based upon complete,[6] quality-assured, and certified data gathered at established state and local air monitoring stations (SLAMS) in the nonattainment area, and entered into the EPA Air Quality System (AQS) database. Data from air monitors operated by state, local, or tribal agencies in compliance with EPA monitoring requirements must be submitted to AQS. These monitoring agencies certify annually that these data are accurate to the best of their knowledge. Accordingly, EPA relies primarily on data in AQS when determining the attainment status of an area. See 40 CFR 50.6; 40 CFR part 50, appendices J and K; 40 CFR part 53; and, 40 CFR part 58, appendices A, C, D, and E.[7]

In the South Coast PM_{10} nonattainment area, the agency responsible for assuring that the area meets air quality monitoring requirements is SCAQMD. Both CARB and SCAQMD submit annual monitoring network plans to EPA. SCAQMD network plans describe the monitoring network operated by SCAQMD in the South Coast nonattainment area. These plans discuss the status of the air monitoring network, as required under 40 CFR 58.10. SCAQMD operates 23 air quality monitoring stations for PM_{10} in the South Coast Air Basin. As required by 40 CFR part 58, the District conducts annual reviews of the air quality monitoring network that are forwarded to CARB and EPA for evaluation. Since 2007, EPA regularly reviews these

[6] For PM_{10}, a complete set of data includes a minimum of 75 percent of the scheduled PM_{10} samples per quarter. See 40 CFR part 50, Appendix K, section 2.3(a).

[7] Because the annual PM_{10} standard was revoked effective December 18, 2006, this document discusses only attainment of the 24-hour PM_{10} standard. See 71 FR 61144; (October 17, 2006).

annual plans for compliance with the applicable reporting requirements in 40 CFR part 58. With respect to PM_{10}, EPA has found that the area's network plans, submitted by SCAQMD, meet the applicable requirements of 40 CFR part 58. See EPA letters to SCAQMD approving their annual network plans for the years 2008, 2009, 2010, and 2011.[8 9 10 11]

EPA also concluded from its Technical System Audit of the CARB Primary Quality Assurance Organization (PQAO) (conducted during the spring of 2010), that the combined ambient air monitoring network operated by SCAQMD currently meets or exceeds the requirements for the minimum number of SLAMS for PM_{10} in the South Coast nonattainment area.[12] SCAQMD annually certifies that the data it submits to AQS are complete and quality-assured.[13]

Complete, quality-assured data since 2007 show that the area has been attaining the standard beginning in 2008. Since comprehensive monitoring began for PM_{10} in the South Coast in the 1960s, the area has seen a significant decline in ambient levels. Table 1 displays the PM_{10} data for the South Coast area for the years 2006–2012. All data except 2012 data have been certified by SCAQMD. Data for all sites exceed 75% annual completeness.[14]

24-hour PM_{10} levels in South Coast are below the standard with no or zero expected exceedances for the 2008–2011 period at all sites in the South Coast nonattainment area, the most recent 3-year period of certified, quality-assured data.[15] See EPA, Air Quality System, Design Value Report, January 2nd, 2013.

Therefore, EPA is determining that the South Coast PM_{10} nonattainment area has attained the 1987 24-hour PM_{10} standard and continues to attain the standard to date based on the most recent available AQS data. In addition, preliminary air quality data for the year 2012 indicates that the area is continuing to attain. EPA expects to have certified data for 2012 before finalizing any proposal and will include an analysis of any available preliminary data for 2013.

TABLE 1—SOUTH COAST PM_{10} AIR QUALITY MONITORING DATA

Site	Expected exceedances				
	2006–2008	2007–2009	2008–2010	2009–2011	2010–2012 [a]
Azusa	2	2	0	0	0
Burbank	0	0	0	0	0
Glendora	0	0	0	0	0
LAX Hastings	0	0	0	0	0
Los Angeles—Main St.	0	0	0	0	0
North Long Beach	2	2	0	0	0
Santa Clarita	2	2	0	0	0
South Long Beach	0	0	0	0	0
Anaheim	2	2	0	0	0
Mission Viejo	0	0	0	0	0
Banning	0	0	0	0	0
Lake Elsinore	0	0	0	0	0
Mira Loma (Van Buren)	0	0	0	0	0
Norco	2	2	0	0	0
Perris	9.7	9.7	0	0	0
Riverside (Magnolia)	.....	.....	0	0	0
Rubidoux	1	1	0	0	0
Crestline	0	0	0	0	0
Fontana	4.4	4.4	0	0	0
Ontario Fire Station	2	2	0	0	0
Redlands	0	0	0	0	0
San Bernardino	2	2	0	0	0
Upland	n/a	0	0	0	0

[a] 2012 data have not been certified.

[8] Letter from Sean Hogan, Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Dr. Chung Liu, Deputy Executive Officer, SCAQMD, dated May 30, 2008.

[9] Letter from Joe Lapka, Acting Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Dr. Chung Liu, Deputy Executive Officer, SCAQMD, dated November 12, 2009.

[10] Letter from Matthew Lakin, Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Dr. Chung Liu, Deputy Executive Officer, SCAQMD, dated November 1, 2010.

[11] Letter from Matthew Lakin, Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Dr. Chung Liu, Deputy Executive Officer, SCAQMD, dated November 1, 2011.

[12] Technical System Audit Report, South Coast Air Quality Management District, April 13–April 16, 2010, Conducted by Air Quality Analysis Office and Quality Assurance Office, US EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105, March 2011.

[13] See, e.g., letter from Chung Liu, Deputy Executive Officer Science and Technology Advancement, South Coast Air Quality Management District, to Jared Blumenfeld, Regional Administrator, U.S. EPA Region IX, certifying calendar year 2011 ambient air quality data and quality assurance data, May 1, 2012, in the docket for today's action.

[14] See EPA, Air Quality System Design Value Reports dated December 18, 2012–January 2, 2013 for completeness information, as well as the TSD. The reports and TSD can be found in the docket for today's action.

[15] See EPA, Air Quality System Design Value Reports dated December 18, 2012–January 2, 2013 in the docket for today's action. A design value is an ambient concentration calculated using a specific methodology from monitored air quality data and is used to compare an area's air quality to a NAAQS. The methodologies for calculating expected exceedances for the 24-hour PM_{10} NAAQS are found in 40 CFR Part 50, Appendix K, Section 2.1(a).

B. The Area Has a Fully-Approved SIP Meeting Requirements Applicable for Purposes of Redesignation Under Section 110 and Part D

Section 107(d)(3)(E)(ii) and (v) require EPA to determine that the area has a fully-approved SIP under section 110(k) that meets all applicable requirements under section 110 and part D for the purposes of redesignation.

EPA may rely on prior SIP approvals in approving a redesignation request. Calcagni memo p. 3, *Wall* v. *EPA* F.3d 416 (6th Cir. 2001), *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–90 (6th Cir. 1998), as well as any additional measures it may approve in conjunction with a redesignation action. See 68 FR 25418, at 25426 (May 12, 2003), and citations therein.

1. Basic SIP Requirements Under CAA Section 110

The general SIP elements and requirements set forth in section 110(a)(2) include, but are not limited to, the following: Submittal of a SIP that has been adopted by the State after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provision for the implementation of part C requirements for prevention of significant deterioration (PSD) provisions; provisions for the implementation of part D requirements for nonattainment new source review (nonattainment NSR) permit programs; provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

We note that SIPs must be fully approved only with respect to applicable requirements for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). The section 110 (and part D) requirements that are linked to a particular nonattainment area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. Requirements that apply regardless of the designation of any particular area in the State are not applicable requirements for the purposes of redesignation, and the State will remain subject to these requirements after the South Coast PM_{10} nonattainment area is redesignated to attainment.

For example, CAA section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state, known as ''transport SIPs.'' Because the section 110(a)(2)(D) requirements for transport SIPs are not linked to a particular nonattainment area's designation and classification but rather apply regardless of the attainment status, these are not applicable requirements for the purposes of redesignation under section 107(d)(3)(E).

Similarly, EPA believes that other section 110 (and part D) requirements that are not linked to nonattainment plan submittals or to an area's attainment status are not applicable requirements for purposes of redesignation. EPA believes that the section 110 (and part D) requirements that relate to a particular nonattainment area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This view is consistent with EPA's existing policy on applicability of the conformity SIP requirement for redesignations. *See* discussion in 75 FR 36023, 36026 (June 24, 2010).

On numerous occasions over the past 35 years, CARB and the District have submitted and EPA has approved provisions addressing the basic CAA section 110 provisions. The South Coast portion of the approved California SIP contains enforceable emissions limitations; requires monitoring, compiling, and analyzing of ambient air quality data; requires preconstruction review of new or modified stationary sources; provides for adequate funding, staff, and associated resources necessary to implement its requirements; and provides the necessary assurances that the State maintains responsibility for ensuring that the CAA requirements are satisfied in the event that South Coast is unable to meet its CAA requirements. There are no outstanding or disapproved applicable section 110 SIP submittals with respect to the State and the SCAQMD.[16] We propose to conclude that CARB and the SCAQMD have met all SIP requirements for the South Coast air basin applicable for purposes of redesignation for the PM_{10} NAAQS under section 110 of the CAA (General SIP Requirements).

2. SIP Requirements Under Part D

Subparts 1 and 4 of part D, title 1 of the CAA contain air quality planning requirements for PM_{10} nonattainment areas. Subpart 1 contains general requirements for all nonattainment areas of any pollutant, including PM_{10}, governed by a NAAQS. The subpart 1 requirements include, among other things, provisions for reasonable available control measures (RACM), reasonable further progress (RFP), emissions inventories, contingency measures, and conformity. Subpart 4 contains specific planning and scheduling requirements for PM_{10} nonattainment areas. Section 189(a), (c), and (e) requirements apply specifically to moderate PM_{10} nonattainment areas and include: (1) An approved permit program for construction of new and modified major stationary sources; (2) provisions for RACM; (3) an attainment demonstration; (4) quantitative milestones demonstrating RFP toward attainment by the applicable attainment date; and (5) provisions to ensure that the control requirements applicable to major stationary sources of PM_{10} also apply to major stationary sources of PM_{10} precursors except where the Administrator has determined that such sources do not contribute significantly to PM_{10} levels that exceed the NAAQS in the area.

With respect to the requirements associated with subpart 4, as discussed above, we have approved PM_{10} SIPs for the South Coast as meeting the requirements of CAA section 189(a)(1)(B) for an attainment demonstration, CAA sections 172(c) and 189(1)(C) for RACM, CAA section 189(c)(1) for an RFP demonstration, and contingency measures under 172(c)(9). We also approved the South Coast 1997 AQMP, 1998 and 1999 Amendments, and 2002 revisions as meeting BACM requirements for serious PM_{10} nonattainment areas (see our proposed rule at 67 FR 77212 (December 17, 2002) and our final rule at 68 FR 19316 (April 18, 2003)). The 2002 SIP also demonstrated that the plan included MSM pursuant to CAA 188(e). See 67 FR 77212, at 77216 (December 17, 2002).

Permits for New and Modified Major Stationary Sources

CAA sections 172(c)(5) and 189(a)(1)(A) require the State to submit SIP revisions that establish certain requirements for new or modified stationary sources in nonattainment areas, including provisions to ensure that major new sources or major modifications of existing sources of nonattainment pollutants incorporate the highest level of control, referred to as the Lowest Achievable Emission Rate (LAER), and that increases in emissions from such stationary sources are offset so as to provide for reasonable further progress towards attainment in the

[16] The applicable California SIP for all nonattainment areas can be found at: *http://yosemite.epa.gov/r9/r9sips.nsf/Casips?readform&count=100&state=California.*

nonattainment area. The process for reviewing permit applications and issuing permits for new or modified stationary sources in nonattainment areas is referred to as ''nonattainment New Source Review'' (nonattainment NSR).

With respect to the part D requirements for a nonattainment NSR permit program for construction of new and modified major stationary sources, EPA has previously approved nonattainment NSR rules (SCAQMD Regulation XIII—New Source Review) for the SCAQMD, which cover the South Coast air basin. NSR for point sources of PM_{10} and PM_{10} precursors is addressed through the SCAQMD's NSR program (Regulation XIII). We approved the District's NSR program on December 4, 1996 (see 61 FR 64291), as well as two revisions at 64 FR 13514 (March 19, 1999), and a final rule at 71 FR 35157 (June 19, 2006)) as satisfying the NSR requirements in title I, part D of the CAA. Table 2 shows the adoption, submittal, and SIP approval status of the District's NSR rules.

TABLE 2—MOST RECENT ADOPTION, SUBMITTAL, AND SIP APPROVAL STATUS OF SCAQMD'S NSR RULES

Rule	Adoption	Submittal to EPA	Approval date	**Federal Register** citation
1301 General	12/07/95	08/28/96	12/04/96	61 FR 64291.
1302 Definitions	12/07/95	03/10/98	03/19/99	64 FR 13514.
1303 Requirements	05/10/96	08/28/96	12/04/96	61 FR 64291.
1304 Exemptions from Regulation XIII	06/14/96	08/28/96	12/04/96	61 FR 64291.
1305 Special Permit Provisions	04/06/84	07/10/84	01/29/85	50 FR 3906.
1306 Emission Calculations	06/14/96	08/28/96	12/04/96	61 FR 64291.
1309 Emission Reduction Credits	12/07/95	08/28/96	12/04/96	61 FR 64291.
1309.1 Priority Reserve	05/03/2002	12/23/2002	06/19/06	71 FR 35157.
1310 Analysis, Notice, and Reporting	12/07/95	08/28/96	12/04/96	61 FR 64291.
1313 Permits to Operate	12/07/95	08/28/96	12/04/96	61 FR 64291.
1315 Federal New Source Review Tracking System	2/4/11	3/2/11	5/25/12	77 FR 31200.

Final approval of the NSR program, however, is not a prerequisite to finalizing our proposed approval of the State's redesignation request. EPA has determined in past redesignations that a NSR program does not have to be approved prior to redesignation, provided that the area demonstrates maintenance of the standard without part D NSR requirements in effect. The rationale for this position is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled ''Part D NSR Requirements for Areas Requesting Redesignation to Attainment.'' See the more detailed explanations in the following redesignation rulemakings: Detroit, MI (60 FR 12459, at 12467–12468, March 7, 1995); Cleveland-Akron-Lorrain, OH (61 FR 20458, 20469–20470, May 7, 1996); Louisville, KY (66 FR 53665, 53669, October 23, 2001); Grand Rapids, MI (61 FR 31831, 31836–31837, June 21, 1996); and San Joaquin Valley, CA (73 FR 22307, 22313, April 25, 2008 and 73 FR 66759, 66766–7, November 12, 2008).

The requirements of the PSD program under Part C will apply to PM_{10} rather than Regulation XIII once the area has been redesignated. See SCAQMD Rule 1303(b). Thus, new major sources of PM_{10} emissions and major modifications at major sources of PM_{10} as defined under 40 CFR 52.21 will be required to obtain a PSD permit or include PM_{10} emissions in their existing PSD permit. SCAQMD is the PSD permitting authority in the South Coast air basin, and operates a delegated PSD program.[17]

California has made clear to EPA that the maintenance demonstration in the redesignation request and maintenance plan for the South Coast PM_{10} nonattainment area does not rely on the continued implementation of nonattainment NSR (i.e., offsets to mitigate emissions growth) to demonstrate maintenance of the PM_{10} standard.[18]

Control Requirements for PM_{10} Precursors

Section 189(e) of the CAA requires that the control requirements applicable under the part D SIP for major stationary sources of PM_{10} also apply to major stationary sources of PM_{10} precursors, except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels that exceed the standard in the area. South Coast's PM_{10} Redesignation Request and Maintenance Plan indicates that NO_X, VOCs and SO_X are PM_{10} precursors in the secondary formation of atmospheric aerosols, which are a significant component of PM_{10} concentrations in the South Coast area.[19] To satisfy ozone and $PM_{2.5}$ nonattainment requirements in CAA section 182(b), SCAQMD has adopted and EPA has approved RACM for NO_X, VOCs, SO_X, and directly-emitted $PM_{2.5}$, and Reasonably Available Control Technology (RACT) rules to reduce NO_X and VOC emissions from existing sources.[20] These rules also address the control requirements in CAA section 189(e) because they control NO_X, VOC, SO_X and $PM_{2.5}$ emissions from major stationary sources. Major stationary sources of NOx and VOC are also controlled by Regulation XIII, which is the District's nonattainment NSR permitting program.

Compliance With Section 110(a)(2)

Section 172(c)(7) requires the SIP to meet applicable provisions of section 110(a)(2). As noted above, we conclude the California SIP meets the requirements of section 110(a)(2) applicable for purposes of this redesignation.

General and Transportation Conformity Requirements

With respect to the conformity requirement, section 176(c) of the CAA

[17] See *U.S. EPA—South Coast Air Quality Management District Agreement for Partial Delegation of Authority to Issue and Modify Prevention of Significant Deterioration Permits Subject to 40 CFR 52.21,* dated July 25, 2007, in the docket for today's action.

[18] See Letter, Elaine Chang, DrPH, Deputy Executive Officer, South Coast Air Quality Management District, to Deborah Jordan, Director, Air Division, US Environmental Protection Agency, Region 9, dated March 21, 2013 in the docket for today's action.

[19] The 2009 South Coast PM_{10} Maintenance Plan indicates that PM_{10} in the South Coast air basin consists of 56% $PM_{2.5}$ and 44% PM_{10} (PM_{10} is dominated by fugitive dust.) See 2009 South Coast PM_{10} Maintenance Plan, pages 5 and 17.

[20] See *Final 2007 Air Quality Management Plan,* South Coast Air Quality Management District, June 2007, especially Appendices IV–A through IV–C, and 76 FR 69928 (November 9, 2011) and 77 FR 12674 (March 1, 2012).

requires states to establish criteria and procedures to ensure that federally supported or funded projects ''conform'' to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. and the Federal Transit Act (''transportation conformity''), as well as to other federally-supported or funded projects (''general conformity''). State conformity regulations must be consistent with federal conformity regulations that the CAA required EPA to promulgate relating to consultation, enforcement and enforceability.

SCAQMD's general conformity regulation, Rule 1901, was submitted to EPA on November 30, 1994 and approved on April 23, 1999 (see 64 FR 19916).

SCAQMD's transportation conformity regulation, Rule 1902, and subsequent rule revisions were submitted to EPA on September 9, 1994, May 10, 1996, and August 14, 1998, but the SIP has not been approved. EPA believes it is reasonable to interpret the conformity SIP requirements as not applying for purposes of a redesignation request under section 107(d) because state conformity rules are still required after redesignation, and federal conformity rules apply where state rules have not been approved. See *Wall* v. *EPA,* 265 F. 3d 426 (6th Cir. 2001), upholding this interpretation. See also, 60 FR 62748 (December 7, 1995).

Thus, EPA proposes to determine that, if EPA finalizes today's proposal and finally approves the emissions inventory and motor vehicle emissions budgets for SCAQMD, the State has a fully-approved SIP meeting all requirements applicable under section 110 and part D for the South Coast nonattainment area for purposes of redesignation. CAA Section 107(d)(3)(E)(v).

C. EPA Has Determined That the Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions

Section 107(d)(3)(E)(iii) requires EPA to determine that the improvement in air quality is due to emission reductions that are permanent and enforceable resulting from the implementation of the applicable SIP and applicable federal air pollution control regulations and other permanent and enforceable regulations in order to approve a redesignation to attainment. Under this criterion, the State must be able to reasonably attribute the improvement in air quality to emissions reductions that are permanent and enforceable. Attainment resulting from temporary reductions in emissions rates (e.g., reduced production or shutdown) or unusually favorable meteorology would not qualify as an air quality improvement due to permanent and enforceable emission reductions. Calcagni memorandum, p. 4.

EPA may rely on prior SIP approvals in approving a redesignation request. Calcagni memo, p. 3, *Wall* v. *EPA* F.3d 416 (6th Cir. 2001), *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–90 (6th Cir. 1998), as well as any additional measures it may approve in conjunction with a redesignation action. See 68 FR 25418, at 25426 (May 12, 2003), and citations therein.

The SCAQMD has jurisdiction over air quality planning requirements for the South Coast air basin. The SCAQMD has adopted numerous plans, rules, and revisions for the South Coast air basin in order to reduce PM_{10} and PM_{10} precursor emissions. The 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan includes a list of control measures adopted and implemented by SCAQMD and approved into the SIP by EPA as reducing emissions to attain the 24-hour PM_{10} NAAQS.

Over the years, the SCAQMD has adopted and the State has submitted PM_{10} attainment plans and regulations for the South Coast PM_{10} nonattainment area. In 2003, we fully approved the PM_{10} attainment plan for the South Coast as meeting all CAA requirements for serious PM_{10} nonattainment areas, and as part of that action we also granted an attainment date extension for the area for both the 24-hour and annual PM_{10} NAAQS, from December 31, 2001 to December 31, 2006, pursuant to CAA section 188(e). For more information on the 2003 approval of the South Coast PM_{10} attainment plan, please see our proposed and final rulemaking notices. The proposal was published on December 17, 2002 (67 FR 77212) and the final approval was published on April 18, 2003 (68 FR 19316). Thus, the South Coast has a fully-approved PM_{10} SIP with respect to RACM, BACM, MSM, and other serious PM_{10} area planning requirements.

On August 1, 2003, the SCAQMD adopted the 2003 South Coast Air Quality Management Plan (''2003 South Coast AQMP''), including new motor vehicle emissions budgets for the area. CARB approved the plan on October 23, 2003, and submitted the plan to us on January 9, 2004. We approved the portions of this plan that addressed attainment of the PM_{10} standards in the South Coast on November 14, 2005. (See 70 FR 69081)

We have previously approved SCAQMD regulations for the control of directly-emitted PM_{10}. See for example, our most recent approvals of revisions to SCAQMD Rules 403 and 1186 on March 10, 2008 (73 FR 12639), following SCAQMD adoption of amendments strengthening these rules.

The 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan also provides a summary of the District rules and regulations that apply to sources of PM_{10} and PM_{10} precursors within the South Coast air basin. 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan, page 16. While the focus of attaining and maintaining the PM_{10} standard in the South Coast PM_{10} nonattainment area has been on controls for fugitive dust, measures that control PM_{10} precursors, most of which have been SIP-approved, also benefit air quality.[21] Those measures that EPA has already approved into the South Coast SIP contribute to attainment and maintenance of the PM_{10} NAAQS. We list these measures in Table 3.

[21] While there are eight measures listed on page 16 of the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan, including rules to control fugitive dust and controlled burning, additional rules are listed in Table 3 which may help address the PM_{10} problem in the South Coast. We have approved all but one of these rules into the SIP, and the remaining rule, South Coast Rule 1127, was proposed for approval into the SIP on January 23, 2013. The comment period ended and no comments were received. A final approval of Rule 1127 is expected prior to our final action on the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan. (See 78 FR 7703, February 4, 2012).

TABLE 3—MOST RECENT EPA APPROVAL STATUS OF SOUTH COAST RULES FOR ATTAINMENT AND MAINTENANCE OF THE PM_{10} STANDARD

Rule No.	Rule name	Adoption date	Submittal date	FR date	FR cite
403	Fugitive Dust	06/03/05	10/05/05	03/10/08	73 FR 12639.
444	Open Burning	12/21/01	01/22/02	04/08/02	67 FR 16644.
445	Wood Burning Devices	03/07/08	07/18/08	06/11/09	74 FR 27716.
1105.1	Reduction of PM_{10} and Ammonia Emissions from Fluid Catalytic Cracking Units.	11/07/03	06/03/04	01/04/06	71 FR 241.
1118	Control of Emissions from Refinery Flares	11/04/05	10/05/06	08/28/07	72 FR 49196.
1127	Livestock Waste	08/06/04	10/05/06	Proposal February 4, 2013	78 FR 7703.
1133.2	Emission Reductions from Co-Composting Operations	01/10/03	06/05/03	07/21/04	69 FR 43518.
1156	Further Reductions of Particulate Emissions from Cement Manufacturing Facilities.	03/06/09	04/29/09	9/4/12	77 FR 53773.
1157	PM_{10} Emission Reductions from Aggregate and Related Operations.	09/08/06	05/15/10	03/07/12	77 FR 13495.
1158	Storage, Handling, and Transport of Coke, Coal and Sulfur	7/11/08	12/23/08	11/10/09	74 FR 57907.
1186	PM_{10} Emissions from Paved and Unpaved Roads, and Livestock Operations.	07/11/08	12/23/08	03/07/12	77 FR 13495.

Source categories for which CARB has primary responsibility for reducing emissions in California include most new and existing on- and off-road engines and vehicles, motor vehicle fuels, and consumer products. In addition, California has unique authority under CAA section 209 (subject to a waiver by EPA) to adopt and implement new emission standards for many categories of on-road vehicles and engines, and new and in-use off-road vehicles and engines. California has been a leader in the development of some of the most stringent control measures nationwide for on-road and off-road mobile sources and the fuels that power them. These measures have helped reduce primary PM_{10} and PM_{10} precursors in the South Coast PM_{10} nonattainment area and throughout the State.

CARB's 2007 State Strategy and 2009 and 2011 updates to the State Strategy provide a recent summary of the measures adopted and implemented by the State.[22] From 1994 to 2006, the State promulgated more than thirty-five rules that have achieved significant emission reductions contributing to attainment and continued attainment in the South Coast PM_{10} nonattainment area. See 2007 State Strategy, p. 38.[23] These measures include new emission standards and in-use requirements that have resulted in significant reductions in emissions of PM_{10} and PM_{10} precursors (i.e., NO_X, SO_X and VOCs) from categories such as passenger cars, trucks, buses, motorcycles, locomotives, cargo handling equipment, marine vessels and large off-road equipment. EPA has generally approved all of the State's measures that are not subject to the CAA section 209 waiver process into the SIP. See EPA's final approval of the South Coast $PM_{2.5}$ plan at 76 FR 69928 (November 9, 2011) and accompanying Technical Support Document (TSD).[24]

Finally, in addition to the local district and State rules discussed above, the South Coast PM_{10} nonattainment area has also benefited from emission reductions from federal measures. These federal measures include EPA's national emissions standards for heavy-duty diesel trucks (66 FR 5001 (January 18, 2001)), certain emissions standards for new construction and farm equipment (Tier 2 and 3 non-road engines standards, 63 FR 56968 (October 23, 1998) and Tier 4 diesel non-road engine standards, 69 FR 38958 (June 29, 2004)), and locomotive engine standards (63 FR 18978 (April 16, 1998) and 73 FR 37096 (June 30, 2008)).

The on-road and off-road vehicle and engine standards cited above have contributed to improved air quality through the gradual, continued turnover and replacement of older vehicle models with newer models manufactured to meet increasingly stringent emissions standards.

Thus, EPA is proposing to find that the improvement in PM_{10} air quality for the South Coast air basin is the result of permanent and enforceable reductions in emissions from significant sources of PM_{10} and PM_{10} precursors in the basin, and that attainment of the PM_{10} standard will be maintained based on the continued implementation of these measures. EPA is proposing to find that the improvement in air quality is not the result of temporary reductions (e.g., economic downturns or shutdowns) or unusually favorable meteorology, but that the improvement in air quality in the South Coast PM_{10} nonattainment area is due to permanent and enforceable emissions reductions under 107(d)(3)(E)(iii).

D. The Area Must Have a Fully-Approved Maintenance Plan Under CAA Section 175A

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. We interpret this section of the Act to require, in general, the following core elements: Attainment inventory, maintenance demonstration plus a commitment to submit a second maintenance plan eight years after redesignation, monitoring network, verification of continued attainment, and contingency plan. See Calcagni memo, pages 8 through 13.

Under CAA section 175A, a maintenance plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after EPA approves a redesignation to attainment. Eight years after redesignation, the State must submit a revised maintenance plan that demonstrates continued attainment for the subsequent ten-year period

[22] See ''Air Resources Board's Proposed State Strategy for California's 2007 State Implementation Plan,'' release date: April 26, 2007 (2007 State Strategy).

[23] The 2007 Proposed State Strategy can be found at: *http://arb.ca.gov/planning/sip/2007sip/apr07draft/sipback.pdf*. Page 38 of the Proposed State Strategy lists forty-five actions the State would undertake. CARB revised and updated the State Strategy in 2009 and 2011; see *http://www.arb.ca.gov/planning/sip/2007sip/2007sip.htm*.

[24] *Final Technical Support Document and Responses to Comments, Final Rulemaking Action on the South Coast 2007 AQMP for $PM_{2.5}$ and the South Coast portions of the Revised 2007 State Strategy*, September 30, 2011. This document can be found at: *http://www.regulations.gov/#!documentDetail;D=EPA-R09-OAR-2009-0366-0136*, and in the docket for today's action.

following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency provisions that EPA deems necessary to promptly correct any violation of the NAAQS that occurs after redesignation of the area. Based on our review and evaluation, as detailed below, we are proposing to approve the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan because it meets the requirements of CAA section 175A.

1. Attainment Inventory

Section 172(c)(3) of the CAA requires plan submittals to include a comprehensive, accurate, and current inventory of emissions from all sources in the nonattainment area. In demonstrating maintenance in accordance with CAA section 175A and the Calcagni memo, the State should provide an attainment emissions inventory to identify the level of emissions in the area sufficient to attain the NAAQS. Where the State has made an adequate demonstration that air quality has improved as a result of the SIP, the attainment inventory will generally be an inventory of actual emissions at the time the area attained the standard. EPA's primary guidance in evaluating these inventories is the document entitled, ''PM_{10} Emissions Inventory Requirements,'' EPA, Office of Air Quality Planning and Standards, EPA–454/R–94–033 (September 1994) which can be found at: *http://www.epa.gov/ttn/chief/eidocs/pm10eir.pdf*.

A maintenance plan for the 24-hour PM_{10} standard must include an inventory of emissions of PM_{10} and its precursors (typically NO_X, VOCs and SO_X) in the area to identify a level of emissions sufficient to attain the 24-hour PM_{10} NAAQS. This inventory must be consistent with EPA's most recent guidance on emissions inventories for nonattainment areas available at the time and should represent emissions during the time period associated with the monitoring data showing attainment. The inventory must also be comprehensive, including emissions from stationary point sources, area sources, and mobile sources.

The 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan provides an estimated daily PM_{10} emissions inventory for 2002 through 2030. The year 2010 provides an appropriate attainment year inventory because it is one of the years in the most recent three-year periods (2008–2010, 2009–2011, and 2010–2012) in which attainment of the PM_{10} NAAQS was monitored. Table 4 presents the PM_{10} emissions inventories for 2002 through 2030 provided in the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan.

TABLE 4—SOUTH COAST ANNUAL AVERAGE PM_{10} EMISSIONS FOR 2002 THROUGH 2030 FOR PM_{10} SOURCES

[Tons per day]

Category	2002	2006	2008	2010	2011	2012	2014	2020	2023	2030
Stationary—Point sources	21.1	20.1	17.1	17.3	17.4	17.6	17.9	18.9	19.5	20.9
Construction and Demolition	39.9	46.9	49.8	52.9	54.3	55.8	58.7	66.0	69.7	78.9
Entrained Road Dust/Paved	125.4	123.5	122.3	123.4	124.0	124.5	125.8	129.3	131.1	135.2
Entrained Road Dust/Unpaved	13.6	11.5	10.3	10.3	10.3	10.3	10.3	10.2	10.2	10.2
Farming Operations	0.8	0.7	0.6	0.6	0.6	0.6	0.5	0.4	0.4	0.3
Fugitive Windblown Dust	2.8	2.4	2.3	2.2	2.2	2.1	2.0	1.8	1.7	1.6
Other Area Sources	23.3	28.8	29.4	30.0	30.3	30.6	31.2	32.6	33.3	35.0
On-road Mobile Sources	24.8	26.5	24.9	24.3	24.3	24.2	24.0	23.6	23.6	24.7
Off-road Mobile Sources	23.1	22.5	20.7	19.9	19.6	19.2	18.4	17.4	18.1	22.7
Total PM_{10}	274.7	282.8	277.5	280.9	283.0	284.8	288.7	300.3	307.7	329.6

Source: 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan, page 22.

The 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan's inventory for sources within the South Coast air basin is subdivided into three subcategories: stationary sources, area sources, and mobile sources. Direct PM_{10} emissions in the South Coast are dominated by reentrained road dust from paved and unpaved roads, construction and demolition, and on- and off-road mobile sources. The 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan estimates emissions for unpaved and paved roads at 133.7 tons per day (47.6% of total emissions) in 2010.

Within the South Coast air basin, in addition to being directly emitted into the atmosphere (e.g., primary particles), PM_{10} emissions can be formed through atmospheric chemical reactions from precursor gases (e.g., secondary particles). Secondary particles, such as sulfates, nitrates, and complex carbon compounds, are formed from reactions with oxides of sulfur, oxides of nitrogen, VOCs and ammonia. The District includes emissions inventories in the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan for precursors of PM_{10} (NO_X, SO_X, and VOCs). The District estimates that 56% of the average peak PM_{10} mass is attributable to $PM_{2.5}$ and 44% to coarse PM (fugitive dust or PM_{10}). See 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan, p. 5. Table 5 presents the emissions inventories for PM_{10}, $PM_{2.5}$ and PM_{10} precursors (NO_X, VOC and SO_X) for the same years as were presented in Table 4.

TABLE 5—SOUTH COAST ANNUAL AVERAGE PM_{10} AND PM_{10} PRECURSOR BASELINE EMISSIONS FOR 2002 THROUGH 2030 FOR PM_{10} SOURCES

[Tons per day]

Category	2002	2006	2008	2010	2011	2012	2014	2020	2023	2030
PM_{10}	274.7	282.8	277.5	280.9	283.0	284.8	288.7	300.3	307.8	329.6
$PM_{2.5}$	99.1	104.2	101.5	101.4	101.5	101.6	101.6	103.2	105.2	113.6
NO_X	1093.2	970.7	853.7	774.7	742.9	711.6	653.6	525.2	506.4	511.8
VOC	844.2	695.9	608.0	572.4	559.4	547.9	527.7	498.5	496.0	508.4
SO_X	53.3	54.8	40.9	39.2	40.1	40.7	42.8	51.4	55.1	71.7

Source: 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan, page 21.

SCAQMD projects that overall, direct PM_{10} emissions will grow from 2008 to 2030 because of growth in the construction/demolition source categories, offsetting emissions reductions from other sources. The District's modeling simulations indicate that despite the growth, the South Coast nonattainment area will continue to attain the federal 24-hour PM_{10} standard because of the significant improvement from the decreases in NOx and VOC emissions leading to a net improvement in PM_{10} air quality over the 2002 to 2030 timeframe.

In conclusion, EPA believes that the selection of 2010 as the attainment year inventory is appropriate since the area was determined to have attained by the 2008–2010 period. Based on our review of the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan, we propose to find that the emissions inventories for 2010 in the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan are comprehensive, current, and accurate in that they include estimates of PM_{10} and its precursors from all of the relevant source categories, which the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan divides among stationary, area wide, and mobile sources. Therefore, we are proposing to approve the 2010 inventory, which serves as the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan's attainment year inventory, as satisfying the requirements of section 172(c)(3) of the CAA for the purposes of redesignation of the South Coast PM_{10} nonattainment area to attainment of the 24-hour PM_{10} NAAQS.

2. Maintenance Demonstration

Section 175A(a) of the CAA requires a demonstration of maintenance of the NAAQS for at least 10 years after redesignation. Generally, a State may demonstrate maintenance of the NAAQS by either showing that future emissions of a pollutant or its precursors will not exceed the level of the attainment inventory, or by modeling to show that the future anticipated mix of sources and emission rates will not cause a violation of the NAAQS. For areas that are required under the Act to submit modeled attainment demonstrations, the maintenance demonstration should use the same type of modeling. Calcagni memorandum, page 9.

For the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan, the State chose the second option and demonstrated maintenance of the 24-hour PM_{10} NAAQS by modeling to show that the future anticipated mix of sources and emission rates will not cause a violation of the NAAQS in the South Coast Basin as discussed below.

Future PM_{10} levels in the South Coast PM_{10} nonattainment area were modeled in a two-part analysis, using separate methods for the fine fraction ($PM_{2.5}$) and the coarse fraction ($PM_{2.5}$ to PM_{10}) of PM_{10}. For the fine fraction of PM_{10}, the modeling demonstration was based on site-specific relative reduction factors that were generated from the regional modeling analysis for $PM_{2.5}$, which accounted for the chemical formation of secondary particulate matter.[25] The future levels of the ''coarse'' fraction ($PM_{2.5-10}$) of the PM_{10} mass were projected by emissions-based rollback. The projected total PM_{10} mass was estimated by adding the fine fraction of the modeling results to the coarse fraction of the modeling results.

The reduction in particulate matter precursor emissions results in a reduction in the levels of PM_{10}, demonstrating maintenance of the PM_{10} NAAQS for the South Coast Air Basin for at least ten years after redesignation.[26] The modeled PM_{10} levels are below the 24-hour PM_{10} NAAQS level of 150 μg/m³ for each of the modeled years of 2010, 2011, 2012, 2014, 2020, 2023, and 2030 throughout the South Coast Air Basin.[27] The emissions projections for the PM_{10} precursors NO_X and VOC in the South Coast Air Basin have decreased significantly since 2002 and are expected to continue to decrease until 2023, and then increase slightly in 2030. Although primary PM_{10} emissions and emissions of SO_X are projected to increase during this time period, the significant improvement from the decreases in NO_X and VOC emissions lead to a net improvement in PM_{10} air quality over the 2002 to 2030 timeframe.

EPA proposes to find that the forecasted decreases in PM_{10} levels, based on the decrease in particulate matter precursor emissions, are consistent with the control measures (discussed above) that are being implemented. Based on our review of the information presented in the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan, we propose to find that the State has shown that attainment of the PM_{10} standard will be maintained in the South Coast Air Basin for at least ten years after redesignation.

3. Verification of Continued Attainment

In demonstrating maintenance, continued attainment of the NAAQS can be verified through operation of an appropriate air quality monitoring network. The Calcagni memo states that the maintenance plan should contain provisions for continued operation of air quality monitors that will provide such verification. Calcagni memo, p. 11.

The SCAQMD has committed to continue to operate an appropriate air quality monitoring network in accordance with 40 CFR part 58, to continue daily monitoring of PM_{10} at the existing monitoring site reporting the highest PM_{10} concentration, to verify the ongoing attainment status of the area. 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan, Chapter 3, page 26. The SCAQMD monitoring

[25] See TSD section II–D.

[26] 24-hour average PM_{10} values were projected for the years 2010, 2011, 2012, 2014, 2020, 2023, and 2030. 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan, p. 69.

[27] The maximum projected 24-hour PM_{10} level for any modeled year is 141 μg/m³ in 2030 in San Bernardino County.

network for PM_{10} is part of an EPA-approved air quality monitoring network.[28]

4. Contingency Provisions

Contingency provisions are required for maintenance plans under section 175A of the CAA to promptly correct any violations of the NAAQS that occur after redesignation of the area. Such provisions must include a requirement that the State will implement all measures with respect to the control of the air pollutant concerned that were contained in the SIP for the area before redesignation of the area as an attainment area. These contingency provisions are distinguished from those generally required for nonattainment areas under section 172(c)(9) in that they are not required to be fully-adopted measures that will take effect without further action by the state in order for the maintenance plan to be approved. However, the contingency plan is considered to be an enforceable part of the SIP and should ensure that the contingency measures are adopted expeditiously once they are triggered by a specified event.

The Calcagni memo states that the contingency provisions of the maintenance plan should identify the measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the State. The memo also states that the contingency provisions should identify indicators or triggers which will be used to determine when the contingency measures need to be implemented. While the memo suggests inventory or monitoring indicators, it states that contingency provisions will be evaluated on a case-by-case basis.

EPA has long approved contingency provisions that rely on reductions from measures that are already in place but are over and above those relied on for attainment and RFP under CAA section 172(c)(9). See, e.g., 62 FR 15844 (April 3, 1997); 62 FR 66279 (December 18, 1997); 66 FR 30811 (June 8, 2001); 66 FR 586 and 66 FR 634 (January 3, 2001). This interpretation has been upheld in *LEAN* v. *EPA,* 382 F.3d 575 (5th Cir. 2004), where the court set forth its reasoning for accepting excess reductions from already adopted measures as contingency measures.

Our interpretation that excess emission reductions can appropriately serve as section 172(c)(9) contingency measures is equally applicable to section 175A(d) contingency measures. EPA has approved maintenance plans under section 175A that included contingency provisions relying on measures to be implemented prior to any post-redesignation NAAQS violation. See 60 FR 27028, 27029 (May 22, 1995); 73 FR 66759, 66,769 (November 12, 2008).

As required by section 175A of the CAA, SCAQMD has adopted a contingency plan to address possible future PM_{10} air quality problems. The contingency provisions in the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan are contained in Section 3.4 on pages 27–29 of the plan and were clarified in a subsequent letter from the District.[29] The District clarified in the letter to EPA that the trigger to implement contingency provisions is a violation of the PM_{10} NAAQS (greater than or equal to 155 ug/m^3), and that the timeframe for triggering and implementing maintenance plan contingency provisions would not exceed 24 months.[30] Should a monitored violation of the PM_{10} standard occur, not caused by an exceptional event, the District commits to first determine if there are available emissions reductions from adopted rules that were not relied upon for PM_{10} maintenance that could serve as contingency measures. If no additional reductions are available, then the District commits to identify, adopt, and implement new rules or amend, adopt, and implement existing rules (such as South Coast Rules 403, 444, 445, 1157, 1158, and 1186) as contingency measures to achieve emissions reductions within 24 months of the determination that a violation of the PM_{10} standard has occurred.

Finally, the District is not proposing to remove or cease implementing any existing SIP-approved measures. Thus, for the reasons set forth above, EPA is proposing to find that the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan is consistent with the maintenance plan contingency provision requirements of the CAA and EPA guidance.

5. Commitment To Submit Subsequent Maintenance Plan Revision

Eight years after redesignation, the State must submit a revised maintenance plan that demonstrates continued attainment for the subsequent ten-year period following the initial ten-year maintenance period. The 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan contains a commitment in Section 3.5 on page 29 to submit a second maintenance plan eight years after redesignation to show maintenance for at least the next ten year period.

In light of the discussion set forth above, EPA is proposing to approve the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan for the South Coast air basin as meeting the requirements of CAA section 175A.

E. Transportation Conformity and Motor Vehicle Emissions Budgets

Under section 176(c) of the CAA, transportation plans, programs and projects in the nonattainment or maintenance areas that are funded or approved under title 23 U.S.C. and the Federal Transit Laws (49 U.S.C. chapter 53) must conform to the applicable SIP. In short, a transportation plan and program are deemed to conform to the applicable SIP if the emissions resulting from the implementation of that transportation plan and program are less than or equal to the motor vehicle emissions budgets (budgets) established in the SIP for the attainment year, maintenance year and other years. See, generally, 40 CFR part 93 for the federal conformity regulations and 40 CFR 93.118 specifically for how budgets are used in conformity.

The budgets serve as a ceiling on emissions that would result from an area's planned transportation system. The budget concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble describes how to establish budgets in the SIP and how to revise the budgets if needed.

Maintenance plan submittals must specify the maximum emissions of transportation-related PM_{10} and PM_{10} precursor emissions allowed in the last year of the maintenance period, i.e., the budgets. Budgets may also be specified for additional years during the maintenance period. The submittal must also demonstrate that these emissions levels, when considered with emissions from all other sources, are consistent with maintenance of the NAAQS. In order for EPA to find these emissions levels or budgets adequate and approvable, the submittal must meet the

[28] See footnotes 7–10.

[29] See Letter, Elaine Chang, DrPH, Deputy Executive Officer, South Coast Air Quality Management District, to Deborah Jordan, Director, Air Division, US Environmental Protection Agency, Region 9, dated March 21, 2013 in the docket for today's action.

[30] See Letter, Elaine Chang, DrPH, Deputy Executive Officer, South Coast Air Quality Management District, to Deborah Jordan, Director, Air Division, US Environmental Protection Agency, Region 9, dated March 21, 2013 in the docket for today's action. The District also clarified that the 24-month timeframe does not apply to exceptional events for which the District has submitted exceptional events documentation to EPA for approval.

conformity adequacy provisions of 40 CFR 93.118(e)(4) and (5).

EPA's process for determining adequacy of a budget consists of three basic steps: (1) Notifying the public of a SIP submittal; (2) providing the public the opportunity to comment on the budget during a public comment period; and, (3) making a finding of adequacy or inadequacy. The process for determining the adequacy of a submitted budget is codified at 40 CFR 93.118(f).

EPA can notify the public by either posting an announcement that EPA has received SIP budgets on EPA's adequacy Web site (40 CFR 93.118(f)(1)), or via a **Federal Register** notice of proposed rulemaking when EPA reviews the adequacy of an implementation plan budget simultaneously with its review and action on the SIP itself (40 CFR 93.118(f)(2)).[31] Today we are notifying the public that EPA will be reviewing the adequacy of the budgets in the submitted maintenance plan. The public has a 30-day comment period (see **DATES** section of this notice). After this comment period, EPA will indicate whether the budgets are adequate via the final rulemaking or on the adequacy Web site, according to 40 CFR 93.118(f)(2)(iii).

The 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan submitted by CARB contains new PM_{10}, reactive organic gases (ROG)[32] and NO_X budgets for the South Coast PM_{10} nonattainment area for 2010, 2020, and 2030. The PM_{10}, ROG, and NO_X budgets for the South Coast PM_{10} nonattainment area are summarized in Table 6. Our adequacy review is detailed in the TSD accompanying today's **Federal Register** notice. Therefore, the public comment period for the adequacy finding will be concurrent with the public comment period for our proposed action on the 2009 South Coast PM_{10} Maintenance Plan and Redesignation Request.

TABLE 6—SUMMARY OF MOTOR VEHICLE EMISSIONS BUDGETS IN THE SOUTH COAST PM_{10} REDESIGNATION REQUEST AND MAINTENANCE PLAN

Budget Year→	Emissions in tons per day		
	2010	2020	2030
ROG	182	110	81
NO_X	372	180	116
PM_{10}	159	164	175

Source: 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan submittal, CARB Staff Report, *Analysis of the South Coast Air Basin PM_{10} Redesignation Request, Maintenance Plan, and Conformity Budgets,* Table 4, page 10.

In Chapter 3 of the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan, a PM_{10} modeling sensitivity analysis was conducted for the years 2010 through 2030 to evaluate the impact of adding 20 tpd of directly emitted PM_{10} to the Basin inventory. The results of this sensitivity analysis indicated that the additional 20 tpd of directly-emitted PM_{10} emissions would not cause regional 24-hour PM_{10} concentrations to exceed 150 $\mu g/m^3$. The analysis predicted that the maximum 24-hour average PM_{10} concentration could potentially reach 141 $\mu g/m^3$ (94 percent of the standard) if the 20 tpd of directly-emitted PM_{10} were added to the baseline inventory. Thus the South Coast PM_{10} modeling indicated a 20 tpd safety margin that can be added to the baseline inventory without causing ambient concentrations to exceed 150 ug/m^3 during the 2010 to 2030 period.[33]

After consultation with the District and the metropolitan planning organization for the region, the Southern California Association of Governments (SCAG), 5 tpd of directly-emitted PM_{10} were added to the conformity budget for 2030. In addition, the 2030 ROG budget was increased by 3 tpd, which is equivalent to 1 ton of PM_{10} based on established modeling ratios. Therefore, total additions for the 2030 budget are the equivalent of 6 tpd of PM_{10}. The additional 6 tpd of PM_{10} represents only 30 percent of the 20 tpd PM_{10} safety margin identified in the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan. The 6 tpd of PM_{10} allows for anticipated growth while setting an emissions budget that ensures continued maintenance of the standard. The ROG budgets for 2010 and 2020 were also increased by 7 tpd and 4 tpd, respectively. Based on established modeling ratios, these levels are also equivalent to 1 tpd of PM_{10} emissions in each of these years.

EPA released an update to *Compilation of Air Pollutant Emission Factors* (AP–42) in January of 2011, which revised the equation for estimating paved road dust emissions based on an updated regression that included new emission tests results.[34] SCAQMD staff conducted an additional technical analysis of their paved road emission projections using the updated AP–42 equation and the latest planning assumptions, to ensure that the motor vehicle emission budgets were still consistent with the currently approved modeling tools and data and the maintenance demonstration. The technical analysis showed that the updated paved road emissions provided a significant safety margin as compared to the attainment inventory emissions of paved road dust for all years for which motor vehicle emission budgets were estimated. Therefore, the total motor vehicle emissions budgets are consistent with maintenance of the standard.

Based on the information presented in the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan and our adequacy review to date, we propose to approve the motor vehicle emissions budgets in the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan as meeting the requirements of the CAA and EPA regulations.

VI. Proposed Actions and Request for Public Comment

Based on our review of the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan submitted by the State, air quality monitoring data, and other relevant materials, EPA is proposing to find that the State has addressed all the necessary requirements for redesignation of the South Coast air basin to attainment of the PM_{10} NAAQS, pursuant to CAA sections 107(d)(3)(E) and 175A.

First, under CAA section 107(d)(3)(D), we are proposing to approve CARB's request, which accompanied the submittal of the maintenance plan, to redesignate the South Coast PM_{10} nonattainment area to attainment for the 24-hour PM_{10} NAAQS. We are doing so based on our conclusion that the area has met the five criteria for redesignation under CAA section 107(d)(3)(E). Our conclusion is based on

[31] The availability of the SIP submittal with budgets can be announced for public comment on EPA's adequacy Web site at *http://www.epa.gov/otaq/stateresources/transconf/reg9sips.htm#ca* which provides a 30-day public comment period. The public can then comment directly on this Web site.

[32] The State of California uses the term reactive organic gases (ROG) where EPA uses the term volatile organic compounds (VOC). We use the terms interchangeably here.

[33] See 2009 South Coast PM_{10} Redesignation Request and Maintenance plan, p. 25.

[34] AP–42, *Compilation of Air Pollutant Emission Factors,* is the primary compilation of EPA's emission factor information. It contains emission factors and process information for more than 200 air pollution source categories, including paved roads.

our proposed determination that the area has attained the 24-hour PM_{10} NAAQS; that relevant portions of the California SIP are fully approved; that the improvement in air quality is due to permanent and enforceable reductions in emissions; that California has met all requirements applicable to the South Coast PM_{10} nonattainment area with respect to section 110 and part D of the CAA; and is based on our proposed approval of the 2009 South Coast PM_{10} Maintenance Plan as part of this action.

Second, in connection with the 2009 South Coast PM_{10} Redesignation Request and Maintenance Plan, EPA proposes to find that the maintenance demonstration showing how the area will continue to attain the 24-hour PM_{10} NAAQS for at least 10 years beyond redesignation (i.e., through 2030) and the associated motor vehicle emissions budgets (Table 6 of this notice) meet applicable CAA requirements for maintenance plans and transportation conformity requirements under 40 CFR 93.118(e). We are also proposing to approve the 2010 emissions inventory as meeting applicable requirements for emissions inventories in CAA section 175A and 172.

We are soliciting comments on these proposed actions. We will accept comments from the public on this proposal for 30 days following publication of this proposal in the **Federal Register**. We will consider these comments before taking final action.

VII. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by State law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submittal that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submittals, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For these reasons, these actions:

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

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

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

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

Dated: March 22, 2013.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2013–08117 Filed 4–5–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–OAR–2011–0135; FRL–9799–6]

RIN 2060–AQ86

Control of Air Pollution From Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards; Public Hearing and Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of public hearings and comment period.

SUMMARY: The EPA is announcing two public hearings to be held for the proposed rule ''Control of Air Pollution from Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards'' (the proposed rule is hereinafter referred to as ''Tier 3''), which will be published separately in the **Federal Register**. The hearings will be held in Philadelphia, PA on April 24, 2013 and in Chicago, IL on April 29, 2013. The comment period for the proposed rulemaking will end on June 13, 2013.

DATES: The public hearings will be held on April 24, 2013 in Philadelphia, PA and on April 29, 2013 in Chicago, IL. To register to testify at either hearing, notify the contact person listed under **FOR FURTHER INFORMATION CONTACT** at least one week before the date of the hearing. Information regarding time of the hearing is also listed below in **SUPPLEMENTARY INFORMATION**. The comment period will end on June 13, 2013.

ADDRESSES: The hearings will be held at the following locations: The April 24, 2013 hearing will be held at the Sonesta Hotel Philadelphia, 1800 Market Street, Philadelphia, PA 19103; the April 29, 2013 hearing will be held at the Doubletree Magnificent Mile, 300 E. Ohio Street, Chicago, IL 60611. In addition, a conference call-in line will be provided to allow for the opportunity for the public to listen to each hearing; information regarding the conference number and passcode will be posted at *www.epa.gov/otaq/tier3.htm.* Please note that this conference line will allow the public to listen only; persons listening will not be able to give an oral presentation via the conference line. Written comments on the proposed rule

may also be submitted to EPA electronically, by mail, by facsimile, or through hand delivery/courier. Please refer to the notice of proposed rulemaking for the addresses and detailed instructions for submitting written comments.

When the proposed rule is published in the **Federal Register**, a complete set of documents related to the proposal will be available for public inspection at the EPA Docket Center, located at 1301 Constitution Avenue NW., Room 3334, Washington, DC between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. Documents are also available through the electronic docket system at *http://www.regulations.gov.* The EPA Web site for the rulemaking, which includes a copy of the pre-publication version of the proposal, can be found at: *www.epa.gov/otaq/tier3.htm.*

FOR FURTHER INFORMATION CONTACT: If you would like to present oral testimony at one of the public hearings, please contact JoNell Iffland, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214–4454; Fax number: (734) 214–4816; Email address: *Iffland.jonell@epa.gov.* Please provide the following information: Name, affiliation, address, email address, telephone and fax numbers, time you wish to speak (morning, afternoon, or no preference; we will try to accommodate these requests in as much as possible), and whether you require accommodations such as a sign language interpreter or translator.

SUPPLEMENTARY INFORMATION: The proposal for which EPA is holding the public hearings will be published separately in the **Federal Register**. A pre-publication copy of the signed notice of proposed rulemaking has been available since March 29, 2013, on the following Web site: *www.epa.gov/otaq/tier3.htm.* EPA is proposing Tier 3 regulations to establish more stringent vehicle emissions standards and reduce the sulfur content of gasoline beginning in 2017, as part of a systems approach to addressing the impacts of motor vehicles and fuels on air quality and public health. The proposed gasoline sulfur standard would make emission control systems more effective for both existing and new vehicles, and would enable more stringent vehicle emissions standards. The proposed vehicle standards would reduce both tailpipe and evaporative emissions from passenger cars, light-duty trucks, medium-duty passenger vehicles, and some heavy-duty vehicles. This would result in significant reductions in pollutants such as ozone, particulate matter, and air toxics across the country and help state and local agencies in their efforts to attain and maintain health-based National Ambient Air Quality Standards. Motor vehicles are an important source of exposure to air pollution both regionally and near roads. The proposed Tier 3 vehicle standards are intended to harmonize with California's Low Emission Vehicle program, thus creating a federal vehicle emissions program that would allow automakers to sell the same vehicles in all 50 states. The proposed vehicle standards would be implemented over the same timeframe as the greenhouse gas/fuel efficiency standards for light-duty vehicles, as part of a comprehensive approach toward regulating emissions from motor vehicles.

Public Hearing: The public hearings will provide interested parties the opportunity to present data, views, or arguments concerning the proposed rule. The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered along with any oral comments and supporting information presented at the public hearing. Written comments must be received by the last day of the comment period.

The public hearings will be held on April 24, 2013 in Philadelphia, PA and April 29, 2013 in Chicago, IL. Each hearing will begin at 10:00 a.m. local time and will continue until everyone has had a chance to speak. To testify at either of the public hearings, please notify the contact person listed under **FOR FURTHER INFORMATION CONTACT** at least one week before the hearing you wish to speak at. Once EPA learns how many people have registered to speak at each public hearing, we will allocate an appropriate amount of time to each participant, allowing time for lunch and necessary breaks throughout the day. In addition, we will reserve a block of time for anyone else in the audience who wishes to give an oral presentation. For planning purposes, each speaker should anticipate speaking for no more than ten minutes, although we may need to adjust the time for each speaker if there is a large turnout. We request that you bring three copies of your statement or other material for the EPA panel. It would also be helpful if you send us a copy of your statement or other materials before the hearing. To accommodate as many speakers as possible, we prefer that speakers not use technological aids (e.g., audio-visuals, computer slideshows, etc.). However, if you wish to do so, you must notify the contact person in the **FOR FURTHER INFORMATION CONTACT** section. You also must make arrangements to provide your presentation or any other aids to EPA in advance of the hearing in order to facilitate set-up.

We will make tentative schedules for the order of testimony at each hearing based on the notifications we receive. These schedules will be available on the morning of each hearing.

The hearings will be held at sites accessible to individuals with disabilities. Individuals who require accommodations such as sign language interpreters should contact the person listed under **FOR FURTHER INFORMATION CONTACT** section at least one week before the date of the of the hearing for which such accommodations are needed.

Written transcripts of the hearings and written statements submitted at a hearing will be included in the rulemaking docket.

Comment Period: The comment period will remain open until June 13, 2013.

How can I get copies of this document, the proposed rule, and other related information?

The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR– 2011–0135. The EPA has also developed a Web site for the proposed rule, including the notice of proposed rulemaking, at the address given above. Please refer to the notice of proposed rulemaking for detailed information on accessing information related to the proposal.

Dated: April 2, 2013.

Lori Stewart,

Acting Director, Office of Transportation and Air Quality.

[FR Doc. 2013–08121 Filed 4–5–13; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 78, No. 67
Monday, April 8, 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

Forest Service

Tonto National Forest; Arizona; Salt River Allotments Vegetative Management EIS

AGENCY: Forest Service, USDA.

ACTION: Notice of extension of public comment period.

DATES: Comments must be received no later than May 8, 2013.

SUMMARY: The Tonto National Forest hereby gives notice that it is extending the public comment period for the Salt River Allotments Vegetative Management Draft Environmental Impact Statement (Draft EIS), which was published in the **Federal Register** on February 22, 2013, (Volume 78, No. 36) originally for a 45-day comment period. Please see the Notice of Availability of the Draft EIS (78 FR 12310) for more detailed information related to the Salt River Allotments Vegetative Management Draft EIS. In response to requests for additional time, the Forest Service will extend the comment period from April 8, 2013, to May 8, 2013.

Federal, State, tribal, and local governments and other interested parties are requested to comment on the Draft EIS. Comments will be accepted by email to *comments-southwestern-tonto@fs.fed.us* or by mail to Debbie Cress, Tonto National Forest, 2324 E. McDowell Rd., Phoenix, AZ 85006 (928) 595–2093 or faxed to (602) 225–5295.

FOR FURTHER INFORMATION CONTACT: Debbie Cress at the address listed above or by telephone (928) 595–2093.

Dated: April 1, 2013.

Neil Bosworth,

Forest Supervisor, Tonto National Forest.

[FR Doc. 2013–07928 Filed 4–5–13; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Solicitation of Applications for the Intermediary Relending Program

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: This Notice of Solicitation of Applications (NOSA) announces the acceptance of applications under the Intermediary Relending Program (IRP) to provide direct loans to intermediaries that establish programs for the purpose of providing loans to ultimate recipients for business facilities and community developments in a rural area. The Agency will make awards each Federal fiscal quarter following the appropriation of funding. In the event all program funds are not obligated in a quarter, the remaining unobligated funds will be carried over to the subsequent quarter. This Notice is being issued prior to a determination of Fiscal Year 2013 funding for this program in order to allow applicants sufficient time to prepare and submit their applications and to provide the Agency time to process applications within Fiscal Year 2013. The Agency will publish a subsequent notice in the **Federal Register** identifying the program funding available for Fiscal Year 2013 for this program.

DATES: For Fiscal Year 2013, applications for regular IRP funding must be received by March 29, 2013, and June 28, 2013, for consideration for Fiscal Year 2013 funds. Requests for set-aside funding must be received by April 30, 2013. Unused set-aside funding will be pooled and revert to the national reserve on July 1, 2013. Applications received after June 28, 2013, may be considered for funding in Fiscal Year 2013, subject to availability of funds or will be considered for award of funds available in the first quarter of Fiscal Year 2014, if permitted.

ADDRESSES: See the **SUPPLEMENTARY INFORMATION** for addresses concerning IRP applications for Fiscal Year 2013 funds.

FOR FURTHER INFORMATION CONTACT: For further information on this Notice, please contact the U.S. Department of Agriculture (USDA) Rural Development State Office for your respective State, as provided in the **SUPPLEMENTARY INFORMATION** section of this Notice.

SUPPLEMENTARY INFORMATION:

Fiscal Year 2013 Applications for the Intermediary Relending Program

Applications. Applications and forms may be obtained from any Rural Development State Office. Applicants must submit an original complete application to the USDA Rural Development State Office in the State where the applicant's project is located. A list of the USDA Rural Development State Offices addresses and telephone numbers are listed below.

Rural Development State Offices

Note: Telephone numbers listed are not toll-free.

Alabama

USDA Rural Development State Office
Sterling Centre, Suite 601
4121 Carmichael Road
Montgomery, AL 36106–3683
(334) 279–3400/FAX (334) 279–3495

Alaska

USDA Rural Development State Office
800 West Evergreen, Suite 201
Palmer, AK 99645–6539
(907) 761–7707/FAX (907) 761–7783

Arizona

USDA Rural Development State Office
230 N. 1st Ave., Suite 206
Phoenix, AZ 85003–1706
(602) 280–8701/FAX (602) 280–8881

Arkansas

USDA Rural Development State Office
700 West Capitol Avenue, Room 3416
Little Rock, AR 72201–3225
(501) 301–3200/FAX (501) 301–3278

California

USDA Rural Development State Office
430 G Street, # 4169
Davis, CA 95616–4169
(530) 792–5800/FAX (530) 792–5837

Colorado

USDA Rural Development State Office
Denver Federal Center
Building 56, Room 2300
Denver, CO 80225–0426
(720) 544–2903/FAX (720) 544–29781

Delaware-Maryland

USDA Rural Development State Office

1221 College Park Drive, Suite 200
Dover, DE 19904
(302) 857–3580/FAX (302) 857–3640

Florida/Virgin Islands

USDA Rural Development State Office
4440 NW 25th Place
Gainesville, FL 32614–7010
(352) 338–3402/FAX (352) 338–3405

Georgia

USDA Rural Development State Office
Stephens Federal Building
355 E. Hancock Avenue
Athens, GA 30601–2768
(706) 546–2162/FAX (706) 546–2152

Hawaii

USDA Rural Development State Office
Federal Building, Room 311
154 Waianuenue Avenue
Hilo, HI 96720
(808) 933–8380/FAX (808) 933–8327

Idaho

USDA Rural Development State Office
9173 West Barnes Dr., Suite A1
Boise, ID 83709
(208) 378–5600/FAX (208) 378–5643

Illinois

USDA Rural Development State Office
2118 West Park Court, Suite A
Champaign, IL 61821
(217) 403–6200/FAX (217) 403–6243

Indiana

USDA Rural Development State Office
5975 Lakeside Boulevard
Indianapolis, IN 46278
(317) 290–3100 ext. 4/FAX (317) 290–3127

Iowa

USDA Rural Development State Office
Federal Building, Room 873
210 Walnut Street
Des Moines, IA 50309
(515) 284–4663/FAX (515) 284–4859

Kansas

USDA Rural Development State Office
1303 SW. First American Place, Suite 100
Topeka, KS 66604–4040
(785) 271–2700/FAX (785) 271–2708

Kentucky

USDA Rural Development State Office
771 Corporate Drive, Suite 200
Lexington, KY 40503
(859) 224–7300/FAX (859) 224–7340

Louisiana

USDA Rural Development State Office
3727 Government Street
Alexandria, LA 71302
(318) 473–7920/FAX (318) 473–7661

Maine

USDA Rural Development State Office
967 Illinois Avenue, Suite 4
Bangor, ME 04401–2767
(207) 990–9160/FAX (207) 990–9165

Massachusetts/Rhode Island/Connecticut

USDA Rural Development State Office
451 West Street, Suite 2
Amherst, MA 01002–2999
(413) 253–4300/FAX (413) 253–4347

Michigan

USDA Rural Development State Office
3001 Coolidge Road, Suite 200
East Lansing, MI 48823
(517) 324–5190/FAX (517) 324–5225

Minnesota

USDA Rural Development State Office
375 Jackson Street, Suite 410
St. Paul, MN 55101–1853
(651) 602–7800/FAX (651) 602–7824

Mississippi

USDA Rural Development State Office
Federal Building, Suite 831
100 W. Capitol Street
Jackson, MS 39269–1608
(601) 965–4316/FAX (601) 965–4088

Missouri

USDA Rural Development State Office
601 Business Loop 70 West
Parkade Center, Suite 235
Columbia, MO 65203–2579
(573) 876–0976/FAX (573) 876–0977

Montana

USDA Rural Development State Office
2229 Boot Hill Court
Bozeman, MT 59715
(406) 585–2530/FAX (406) 585–2565

Nebraska

USDA Rural Development State Office
Federal Building, Room 152
100 Centennial Mall North
Lincoln, NE 68508–3859
(402) 437–5551/FAX (402) 437–5408

Nevada

USDA Rural Development State Office
1390 South Curry Street
Carson City, NV 89703–9910
(775) 887–1222/FAX (775) 885–0841

New Jersey

USDA Rural Development State Office
8000 Midlantic Drive
5th Floor North, Suite 500
Mt. Laurel, NJ 08054–1522
(856) 787–7700/FAX (856) 787–7783

New Mexico

USDA Rural Development State Office
6200 Jefferson Street, NE., Room 255
Albuquerque, NM 87109–3434
(505) 761–4950/FAX (505) 761–4976

New York

USDA Rural Development State Office
The Galleries of Syracuse
441 South Salina Street, Suite 357
Syracuse, NY 13202–2541
(315) 477–6400/FAX (315) 477–6438

North Carolina

USDA Rural Development State Office
4405 Bland Road, Suite 260
Raleigh, NC 27609
(919) 873–2000/FAX (919) 873–2075

North Dakota

USDA Rural Development State Office
Federal Building, Room 208
220 East Rosser
Bismarck, ND 58502–1737
(701) 530–2037/FAX (701) 530–2111

Ohio

USDA Rural Development State Office
Federal Building, Room 507
200 North High Street
Columbus, OH 43215–2418
(614) 255–2400/FAX (614) 255–2561

Oklahoma

USDA Rural Development State Office
100 USDA, Suite 108
Stillwater, OK 74074–2654
(405) 742–1000/FAX (405) 742–1005

Oregon

USDA Rural Development State Office
1201 NE Lloyd Blvd., Suite 801
Portland, OR 97232–1274
(503) 414–3300/FAX (503) 414–3387

Pennsylvania

USDA Rural Development State Office
One Credit Union Place, Suite 330
Harrisburg, PA 17110–2996
(717) 237–2299/FAX (717) 237–2191

Puerto Rico

USDA Rural Development State Office
IBM Building, Suite 601
654 Munos Rivera Avenue
San Juan, PR 00936–6106
(787) 766–5095/FAX (787) 766–5844

South Carolina

USDA Rural Development State Office
Strom Thurmond Federal Building
1835 Assembly Street, Room 1007
Columbia, SC 29201–2449
(803) 765–5163/FAX (803) 765–5633

South Dakota

USDA Rural Development State Office
Federal Building, Room 210
200 Fourth Street, SW
Huron, SD 57350–2461
(605) 352–1100/FAX (605) 352–1146

Tennessee

USDA Rural Development State Office
3322 West End Avenue, Suite 300
Nashville, TN 37203–1071
(615) 783–1300/FAX (615) 783–1301

Texas

USDA Rural Development State Office

Federal Building, Suite 102
101 South Main
Temple, TX 76501–7651
(254) 742–9700/FAX (254) 742–9709

Utah

USDA Rural Development State Office
Wallace F. Bennett Federal Building
125 South State Street, Room 4311
Salt Lake City, UT 84138–1106
(801) 524–4321/FAX (801) 524–4406

Vermont/New Hampshire

USDA Rural Development State Office
City Center, 3rd Floor
89 Main Street
Montpelier, VT 05602–4449
(802) 828–6080/FAX (802) 828–6076

Virginia

USDA Rural Development State Office
Culpeper Building, Suite 238
1606 Santa Rosa Road
Richmond, VA 23229–5014
(804) 287–1550/FAX (804) 287–17518

Washington

USDA Rural Development State Office
1835 Black Lake Boulevard SW., Suite B
Olympia, WA 98512–5715
(360) 704–7740/FAX (360) 704–7742

West Virginia

USDA Rural Development State Office
1550 Earl Core Road, Suite 101
Morgantown, WV 26505
(304) 284–4860/FAX (304) 284–4891

Wisconsin

USDA Rural Development State Office
5417 Clem's Way
Stevens Point, WI 54482
(715) 345–7600/FAX (715) 345–7669

Wyoming

USDA Rural Development State Office
Dick Cheney Federal Building
100 East B Street, Room 1005
Casper, WY 82601
(307) 233–6700/FAX (307) 233–6727

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act, the information collection requirements associated with the IRP, as covered in this Notice, has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0062.

Overview

Federal Agency Name: Rural Business-Cooperative Service.

Solicitation Opportunity Title: Intermediary Relending Program.

Announcement Type: Initial announcement.

Catalog of Federal Domestic Assistance Number: The Catalog of Federal Domestic Assistance Number (CFDA) for this Notice is 10.767.

Dates: Completed applications must be received in the USDA Rural Development State Offices no later than the Federal fiscal quarter deadlines of March 29, 2013, and June 28, 2013, to be considered for funds available in Fiscal Year 2013. Requests for set-aside funding must be received by April 30, 2013. Unused set-aside funding will be pooled and revert to the national reserve on July 1, 2013. Applications received after a Federal fiscal quarter deadline will be reviewed and evaluated for funding in the next Federal fiscal quarter. Completed applications received after June 28, 2013, may be considered for funding in Fiscal Year 2013, subject to availability of funds or will be considered for award for funds available in the first quarter of Fiscal Year 2014.

Availability of Notice and Rule. This Notice for the IRP is available on the USDA Rural Development Web site at *http://www.rurdev.usda.gov/BCP_IRP.html.*

I. Funding Opportunity Description

A. *Purpose of the Intermediary Relending Program.* The program purpose is to provide direct loans to intermediaries that establish programs for the purpose of providing loans to ultimate recipients for business facilities and community developments in a rural area as defined in 7 CFR 4274.301(b).

B. *Statutory Authority.* This program is authorized by the Secretary of Agriculture via a note to 7 U.S.C. 1932.

C. *Definition of Terms.* The definitions applicable to this Notice are published at 7 CFR 4274.302.

II. Award Information

A. *Type of Award:* Loan.

B. *Fiscal Year Funds:* FY 2013.

C. *Funding Availability:* Based on historical funding for the program, the Agency anticipates the available program level in Fiscal Year 2013 will approximate $17.7 million. Of this total, $2.5 million will be available for Native American Set-Aside and $5.1 million will be available for Mississippi Delta Region Counties Set-Aside. No awards will be made until funding is available.

Requests for set-aside funding must be received by April 30, 2013. Unused set-aside funding will be pooled and revert to the national reserve on July 1, 2013, IRP regular funding must be obligated by September 30, 2013. In the event some program funds allocated for a particular quarter of Fiscal Year 2013 are not obligated, the remaining unobligated funds will be carried over to the next Federal fiscal quarter.

D. *Approximate Number of Awards:* 25.

E. *Awards:* Intermediaries submitting a loan request may receive a maximum award up to $1 million. Requests for set-aside funding may receive a maximum award up to $1 million.

F. *Anticipated Award Dates:*

- June 28, 2013 for applications received by March 29, 2013.
- September 20, 2013 for applications received by June 28, 2013.
- December 31, 2013 for applications received by September 30, 2013.

III. Eligibility Information

A. *Eligible applicants.* To be eligible for this program, the applicant must meet the eligibility requirements in 7 CFR 4274.307.

B. *Corporate Felony Convictions and Corporate Felony Tax Delinquencies.* Applications from corporate applicants, submitted under this Notice must include Form AD 3030, ''Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicants.'' Awards to corporate applicants, under this Notice will be required to sign Form AD 3031, ''Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants.''

C. *Cost share requirements.* The IRP revolving fund share of the eligible project cost of an intermediary's project funded under this Notice shall not exceed 75 percent. The cost share requirement shall be met by the intermediary in accordance with the requirements specified in 7 CFR 4274.331(b).

D. *Other eligibility requirements.* Applications will only be accepted from eligible intermediaries. Awards each Federal fiscal quarter will be based on ranking with the highest ranking applications being funded first, subject to available funding.

E. *Completeness eligibility.* All applications must be submitted as a complete application, in one package. Applications will not be considered for funding if they do not provide sufficient information to determine eligibility or are otherwise not suitable for evaluation. Such applications will be withdrawn.

IV. Fiscal Year 2013 Application and Submission Information

A. *Application submittal.* Loan applications must be submitted in paper format. Applications may not be submitted by electronic mail.

Applications must be organized in the same order set forth in 7 CFR 4274.343(a). To ensure timely delivery, applicants are strongly encouraged to

submit their applications using an overnight, express, or parcel delivery service.

All applicants must have a Dun and Bradstreet Data Universal Numbering System (DUNS) number, which can be obtained at no cost via a toll-free request line at 1–866–705–5711 or online at *http://fedgov.dnb.com/webform.* This also includes sub-recipients.

Please note that applicants can locate the downloadable application package for this program by the Catalog of Federal Domestic Assistance Number, which is 10.767.

B. *Content and form of submission.* An application must contain all of the required elements outlined in 7 CFR 4274.343(a). Each application must address the applicable scoring criteria presented in 7 CFR 4274.344(c).

C. *Submission dates and times.* The original complete application must be received by the USDA Rural Development State Office no later than 4:30 p.m. local time by the application deadline dates listed above, regardless of the postmark date, in order to be considered for funds available in that Federal fiscal quarter.

Unless withdrawn by the applicant, completed applications that have not yet been funded will be retained by the Agency for consideration in subsequent reviews through a total of four consecutive quarterly reviews. Applications that remain unfunded after four quarterly reviews, including the initial quarter in which the application was completed, will not be considered further for an award. The applicant must submit a new application at that time if it desires further funding consideration.

V. Application Review Information

Awards under this Notice will be made on a competitive basis each Federal fiscal quarter. Each application received in the USDA Rural Development State Office will be reviewed, scored, and ranked to determine if it is consistent with the program requirements. Applications will be scored based on the applicable scoring criteria contained in 7 CFR 4274.344(c).

VI. Award Administration Information

Successful applicants will receive notification for funding from the USDA Rural Development State Office. Applicants must comply with all applicable statutes and regulations before the award will be approved. Unsuccessful applications will receive notification by mail.

VII. Agency Contacts

For general questions about this Notice, please contact your USDA Rural Development State Office as provided in the Addresses section of this Notice.

Federal Funding Accountability and Transparency Act

All applicants, in accordance with 2 CFR part 25, must have a DUNS number, which can be obtained at no cost via a toll-free request line at 1–866–705–5711 or online at *http://fedgov.dnb.com/webform.* Similarly, all grant applicants must be registered in the System for Award Management (SAM) prior to submitting an application. Grant applicants may register for the SAM at *http://www.sam.gov.* All recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive total compensation in accordance with 2 CFR part 170.

Nondiscrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and, where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

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Dated: January 24, 2013.

Lillian E. Salerno,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 2013–08186 Filed 4–4–13; 11:15 am]

BILLING CODE 3410–XY–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meetings

DATE AND TIME: Wednesday, April 10, 2013, 8:00 a.m.–12:00 p.m. EDT.

PLACE: Cohen Building, Room 3321, 330 Independence Ave. SW., Washington, DC 20237.

SUBJECT: Notice of Meeting of the Broadcasting Board of Governors .

SUMMARY: The Broadcasting Board of Governors (BBG) will be meeting between 8 a.m. and 12 p.m. EDT at the location listed above. At the meeting, the BBG will receive and consider a BBG Board staffing plan and other personnel matters.

This meeting will be available for public observation via streamed webcast, both live and on-demand, on the BBG's public Web site at *www.bbg.gov.* Information regarding this meeting, including any updates or adjustments to its starting time, can also be found on the Agency's public Web site.

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Paul Kollmer-Dorsey at (202) 203–4545.

Paul Kollmer-Dorsey,

Deputy General Counsel.

[FR Doc. 2013–08211 Filed 4–4–13; 4:15 pm]

BILLING CODE 8610–01–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meetings

DATE AND TIME: Thursday, April 11, 2013, 12:30 p.m. EDT.

PLACE: Cohen Building, Room 3321, 330 Independence Ave. SW., Washington, DC 20237.

SUBJECT: Notice of Meeting of the Broadcasting Board of Governors.

SUMMARY: The Broadcasting Board of Governors (BBG) will be meeting at the time and location listed above. At the meeting, the BBG will receive and consider a report from the Governance Committee regarding the compliance progress with the recommendations in the Office of Inspector General's inspection report of the BBG, as well as a BBG Board staffing plan. The BBG will receive and consider a progress report from the Strategy and Budget Committee, including the 2013 language service review process and the BBG strategic plan update. The BBG will also receive a budget update and receive reports from the International Broadcasting Bureau Director, the Technology, Services and Innovation Director, the Communications and External Affairs Director, the Strategy and Development Director, the VOA Director, the Office of Cuba Broadcasting Director, and the Presidents of Radio Free Europe/Radio

Liberty, Radio Free Asia, and the Middle East Broadcasting Networks.

The public may attend this meeting in person at the address listed above as seating capacity permits. Member of the public seeking to attend the meeting in person must register at *http://bbgboardmeetingapril2013.eventbrite.com* by 12:00 p.m. (EDT) on April 10. For more information, please contact BBG Public Affairs at (202) 203–4400 or by email at *pubaff@bbg.gov.* This meeting will also be available for public observation via streamed webcast, both live and on-demand, on the BBG's public Web site at *www.bbg.gov.* Information regarding this meeting, including any updates or adjustments to its starting time, can also be found on the Agency's public Web site.

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Paul Kollmer-Dorsey at (202) 203–4545.

Paul Kollmer-Dorsey,

Deputy General Counsel.

[FR Doc. 2013–08213 Filed 4–4–13; 4:15 pm]

BILLING CODE 8610–01–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and Opportunity for Public Comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 et seq.), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[2/22/2013 through 4/2/2013]

Firm name	Firm address	Date accepted for investigation	Product(s)
Display Devices, Inc	5880 Sheridan Blvd., Arvada, CO 80003.	3/5/2013	The firm designs and manufacturers audio-visual support products for a variety of display applications.
Versatility Tool Works and Manufacturing Company.	11532 South Mayfield Avenue, Alsip, IL 60803.	3/5/2013	The firm manufacturers stamped metal components.
Air Quality Engineering, Inc	7140 Northland Drive North, Brooklyn Park, MN 55428.	3/13/2013	The firm anufactures sheet metal air cleaners and air filters utilized for machine tool mist removal, welding fume removal, restaurant kitchen exhaust removal, and smoke pollen filtration for the residential, commercial, commercial kitchen and industrial markets.
T&T Anodizing, Inc	35 Maple Street, Lowell, MA 1852	3/26/2013	The firm provides anodic and chemical conversion coatings on aluminum alloys. Their services also include stainless steel passivation, painting, powder coating & silk screening.
Donna Marberger d/b/a Donna M Collection.	688 South Santa Fe #103, Los Angeles, CA 90021.	3/26/2013	The firm is engaged in the design, production and sales of women's clothing. Each piece of clothing sewn locally is dyed in dowtown Los Angeles dye houses.
Mobel, Inc	2130 Industrial Park Road, Ferdinand, IN 47532.	3/26/2013	The firm manufactures wood furniture, primarily for residential bedroom use.
Winn Machine, Inc	720 Boyd Blvd., LaPorte, IN 46350.	3/27/2013	The firm manufactures turned, milled and fabricated metal and plastic parts for compressors and other machines.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: April 2, 2013.

Michael DeVillo,

Eligibility Examiner.

[FR Doc. 2013–08072 Filed 4–5–13; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–132–2012]

Approval of Subzone Status; Pepsi Cola Puerto Rico Distributing, LLC, Toa Baja, Puerto Rico

On December 7, 2012, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Puerto Rico Industrial Development Company, grantee of FTZ 7, requesting subzone status subject to the existing activation limit of FTZ 7, on

behalf of Pepsi Cola Puerto Rico Distributing, LLC.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (77 FR 74170, 12/13/2012). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval.

Pursuant to the authority delegated to the FTZ Board's Executive Secretary (15 CFR Sec. 400.36(f)), the application to establish Subzone 7N is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 7's 2,000-acre activation limit.

Dated: April 2, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–08130 Filed 4–5–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–27–2013]

Foreign-Trade Zone (FTZ) 161—Sedgwick County, Kansas; Notification of Proposed Production Activity; Siemens Energy, Inc., (Wind Turbine Nacelles and Hubs), Hutchinson, Kansas

Siemens Energy, Inc. (SEI), an operator of FTZ 161, submitted a notification of proposed production activity for its facilities in Hutchinson, Kansas. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on March 7, 2013.

The SEI facilities are used for the production of wind turbine nacelles and hubs. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt SEI from customs duty payments on the foreign status materials and components used in export production. On its domestic sales, SEI would be able to choose the duty rates during customs entry procedures that apply to wind turbine nacelles and hubs (free, 2.5%) for the foreign status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components and materials sourced from abroad include: greases/oils; pastes, of organic chemicals; resins; putties; adhesives; anti-corrosion coatings; plastic tubes/washers/hoses/seals/sheets/tape/bags/containers; bushings; funnels; weather strips; hydraulic hoses; rubber gaskets/o-rings/seals/profiles/edgings/hoses/vibration dampeners; covers; gaskets; labels; fasteners; bolt extenders; springs; rings; bushings; flanges; hatches; supports; pipes; clamps; brackets; support adapters; base metal mountings; wire; nets; trays; adjustable chains; filters; copper pipes/adapters/fasteners/reducers; aluminum plates/flanges/covers; locks and locksets; hinges; brackets; flex hoses; oil coolers; pumps and related parts; fans; valves; bearings; pulleys; gears; service cranes; distributor blocks; ring modules; nozzles; motors; generators; plates/guides/cables; slip rings; cable glands; electrical panels/boards; lamps; sensors; rod ends; flash memory cards; lighting equipment; electrical components and connectors; switches; printed circuit boards/assemblies; controllers; cable; insulated fittings; fiber optic cables; cable/electrical conduits; lightning card holders; and, transducers (duty rate ranges from free to 12.5%).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is May 20, 2013.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz*.

For further information, contact Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: March 28, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–08109 Filed 4–5–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–28–2013]

Foreign-Trade Zone (FTZ) 158—Vicksburg/Jackson, Mississippi; Notification of Proposed Production Activity; Lane Furniture Industries, Inc., (Upholstered Furniture), Belden, Saltillo, and Verona, Mississippi

The Greater Mississippi Foreign-Trade Zone, Inc., grantee of FTZ 158, submitted a notification of proposed production activity on behalf of Lane Furniture Industries, Inc. (Lane), located in Belden, Saltillo, and Verona, Mississippi. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on February 28, 2013.

The Lane facilities are located within Sites 14, 16, and 17 of FTZ 158 and currently have authority to conduct cut-and-sew activity using certain foreign micro-denier suede upholstery fabrics to produce upholstered furniture and related parts (upholstery cover sets) on a restricted basis (see, Board Order 1598, 74 FR 263, 1–5–2009). Board Order 1598 authorized the production of upholstered furniture (sofa, chairs, and recliners) for a five-year period, with a scope of authority that only provides FTZ savings on a limited quantity (6.5 million square yards/year) of foreign origin, micro-denier suede upholstery fabric finished with a hot caustic soda solution process. All foreign upholstery fabric other than micro-denier suede fabric used in Lane's production within FTZ 158 is subject to full customs duties.

The current request seeks to extend the company's current FTZ authority indefinitely. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Lane from customs duty payments on the foreign micro-denier suede upholstery fabric used in export production. On its domestic sales, Lane would be able to apply the finished upholstery cover set (*i.e.,* furniture part) or finished furniture duty rate (free) for the micro-denier suede fabric listed below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The proposed scope of authority under FTZ procedures would only

involve micro-denier suede upholstery fabrics finished with a hot caustic soda solution process, as detailed in the notification (duty rate ranges from 2.7 to 17.2%). All other material inputs used in the production activity would be in domestic (duty paid) status.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is May 20, 2013.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Pierre Duy at *Pierre.Duy@trade.gov,* or (202) 482–1378.

Dated: April 2, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–08112 Filed 4–5–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–29–2013]

Foreign-Trade Zone (FTZ) 158—Vicksburg/Jackson, Mississippi; Notification of Proposed Production Activity; Bauhaus USA, Inc.; (Upholstered Furniture); Saltillo, Mississippi

The Greater Mississippi Foreign-Trade Zone, Inc., grantee of FTZ 158, submitted a notification of proposed production activity on behalf of Bauhaus USA, Inc. (Bauhaus), located in Saltillo, Mississippi. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on February 28, 2013.

The Bauhaus facility is located within Site 16 of FTZ 158 and currently has authority to conduct cut-and-sew activity using certain foreign micro-denier suede upholstery fabrics to produce upholstered furniture and related parts (upholstery cover sets) on a restricted basis (see, Board Order 1600, 74 FR 262–263, 1–5–2009). Board Order 1600 authorized the production of upholstered furniture (sofa, chairs, and recliners) for a five-year period, with a scope of authority that only provides FTZ savings on a limited quantity (3.5 million square yards/year) of foreign origin, micro-denier suede upholstery fabric finished with a hot caustic soda solution process. All foreign upholstery fabric other than micro-denier suede fabric used in Bauhaus' production within FTZ 158 is subject to full customs duties.

The current request seeks to extend the company's current FTZ authority indefinitely. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Bauhaus from customs duty payments on the foreign micro-denier suede upholstery fabric used in export production. On its domestic sales, Bauhaus would be able to apply the finished upholstery cover set (*i.e.,* furniture part) or finished furniture duty rate (free) for the micro-denier suede fabric listed below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The proposed scope of authority under FTZ procedures would only involve micro-denier suede upholstery fabrics finished with a hot caustic soda solution process, as detailed in the notification (duty rate ranges from 2.7 to 17.2%). All other material inputs used in the production activity would be in domestic (duty paid) status.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is May 20, 2013.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Pierre Duy at *Pierre.Duy@trade.gov,* or (202) 482–1378.

Dated: April 2, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–08111 Filed 4–5–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–21–2013]

Foreign-Trade Zone (FTZ) 158—Vicksburg/Jackson, Mississippi; Notification of Proposed Production Activity; H.M. Richards, Inc., (Upholstered Furniture), Guntown, Mississippi

The Greater Mississippi Foreign-Trade Zone, Inc., grantee of FTZ 158, submitted a notification of proposed production activity on behalf of H.M. Richards, Inc. (HMRI), located in Guntown, Mississippi. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on February 28, 2013.

The HMRI facility is located within Site 15 of FTZ 158 and currently has authority to conduct cut-and-sew activity using certain foreign micro-denier suede upholstery fabrics to produce upholstered furniture and related parts (upholstery cover sets) on a restricted basis (see, Board Order 1599, 74 FR 263, 1–5–2009). Board Order 1599 authorized the production of upholstered furniture (sofa, chairs, and recliners) for a five-year period, with a scope of authority that only provides FTZ savings on a limited quantity (3.6 million square yards/year) of foreign origin, micro-denier suede upholstery fabric finished with a hot caustic soda solution process. All foreign upholstery fabric other than micro-denier suede fabric used in HMRI's production within FTZ 158 is subject to full customs duties.

The current request seeks to extend the company's current FTZ authority indefinitely, with an increase to 6.5 million square yards per year for the FTZ Board-imposed limit on the volume of foreign-origin micro-denier suede upholstery fabric. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt HMRI from customs duty payments on the foreign micro-denier suede upholstery fabric used in export production. On its domestic sales, HMRI would be able to apply the finished upholstery cover set (*i.e.,* furniture part) or finished furniture duty rate (free) for the micro-denier suede fabric listed below. Customs duties also could

possibly be deferred or reduced on foreign status production equipment.

The proposed scope of authority under FTZ procedures would only involve micro-denier suede upholstery fabrics finished with a hot caustic soda solution process, as detailed in the notification (duty rate ranges from 2.7 to 17.2%). All other material inputs used in the production activity would be in domestic (duty paid) status.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is May 20, 2013.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Pierre Duy at *Pierre.Duy@trade.gov,* or (202) 482–1378.

Dated: April 2, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–08113 Filed 4–5–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–841]

Polyvinyl Alcohol From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2010–2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on polyvinyl alcohol (PVA) from Taiwan. The period of review (POR) is September 13, 2010, through February 29, 2012. The review covers one producer/exporter of the subject merchandise, Chang Chun Petrochemical Co., Ltd. (CCPC). We preliminarily find that CCPC has not sold subject merchandise at less than normal value.

DATES: *Effective Date:* April 8, 2013

FOR FURTHER INFORMATION CONTACT: Sandra Dreisonstok or Minoo Hatten, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0768, and (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to the order is PVA. The PVA subject to the order is currently classifiable under subheading 3905.30.00 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheading is provided for convenience and customs purposes. A full description of the scope of the order is contained in the memorandum from Edward C. Yang, Senior Director, China/Non-Market Economy Unit, to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration, ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Polyvinyl Alcohol from Taiwan; 2010–2012'' dated concurrently with this notice (''Preliminary Decision Memorandum''), which is hereby adopted by this notice. The written description is dispositive.

The Preliminary Decision Memorandum is a public document and is on file electronically *via* Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). Access to IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://www.trade.gov/ia/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Methodology

The Department has conducted this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). Export price is calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act. In accordance with section 773(b) of the Act, we disregarded certain sales by CCPC in the home market which were made at below-cost prices. To determine the appropriate comparison method, the Department applied a ''differential pricing'' analysis and has preliminarily determined to use the average-to-average method in making comparisons of export price and normal value for CCPC. For a full description of the methodology underlying our conclusions, *see* Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine that a weighted-average dumping margin of 0.00 percent exists for CCPC for the period September 13, 2010, through February 29, 2012.

Disclosure and Public Comment

Pursuant to 19 CFR 351.309(c), interested parties may submit cases briefs not later than 30 days after the date of publication of this notice.[1] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[2] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[3]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, filed electronically *via* IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon completion of the administrative review, the Department shall determine and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries. If CCPC's weighted-average dumping margin is not zero or *de minimis* in the final results of this review, we will calculate an importer-specific assessment rate on the basis of

[1] *See* 19 CFR 351.309(c)(1).

[2] *See* 19 CFR 351.309(d).

[3] *See* 19 CFR 351.309(d)(2) and (d)(2).

the ratio of the total amount of dumping calculated for the importer's examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1). Where an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. If CCPC's weighted-average dumping margin continues to be zero or *de minimis* in the final results of review, we will instruct CBP not to assess duties on any of its entries in accordance with the *Final Modification for Reviews, i.e.,* ''{w}here the weighted-average margin of dumping for the exporter is determined to be zero or *de minimis,* no antidumping duties will be assessed.'' [4]

The Department clarified its ''automatic assessment'' regulation on May 6, 2003.[5] This clarification will apply to entries of subject merchandise during the POR produced by CCPC for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

We intend to issue instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of PVA from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for CCPC will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review or the original investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 3.08 percent, the all-others rate established in the *Antidumping Duty Order: Polyvinyl Alcohol From Taiwan,* 76 FR 13982 (March 15, 2011). These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 2, 2013.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

1. Scope of the Order
2. Comparisons to Normal Value
3. Determination of Comparison Method
4. Results of the Differential Pricing Analysis
5. Product Comparisons
6. Date of Sale
7. Export Price
8. Normal Value
9. Home Market Viability as Comparison Market
10. Level of Trade
11. Cost of Production
12. Calculation of Cost of Production
13. Test of Home Market Sales Prices
14. Results of the COP Test
15. Calculation of Normal Value Based on Home Market Prices
16. Currency Conversion

[FR Doc. 2013–08110 Filed 4–5–13; 8:45 am]

BILLING CODE 3510–DS–P

[4] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101, 80102 (February 14, 2012).

[5] For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–836]

Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* April 8, 2013.

SUMMARY: On December 6, 2012, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on glycine from the People's Republic of China (PRC) [1] in the **Federal Register**. We gave interested parties an opportunity to comment on the preliminary results. Based upon our analysis of the comments received by the parties we have not made any changes to the antidumping duty rate assigned to the PRC-wide entity, which includes the sole company subject to this review, Baoding Mantong Fine Chemistry Co. Ltd. (Baoding Mantong), and are rescinding the review with respect to companies for which this review was initiated but had not previously received a separate rate status, for the final results.[2]

FOR FURTHER INFORMATION CONTACT: Brian Davis or Ericka Ukrow, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–7924 or (202) 482–0405, respectively.

SUPPLEMENTARY INFORMATION:

Period of Review

The period of review is March 1, 2011, through February 29, 2012.

Scope of the Order

The product covered by the antidumping duty order is glycine, which is a free-flowing crystalline material, like salt or sugar.[3] The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading: 2922.49.4020. The HTSUS subheading is provided for convenience and customs purposes only; the written

[1] *See Glycine From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Partial Rescission of Antidumping Duty Administrative Review; 2011–2012,* 77 FR 72817 (December 6, 2012) (*Preliminary Results*), and accompanying Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review and Preliminary Partial Rescission of Antidumping Duty Administrative Review: Glycine From the People's Republic of China'' from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration, dated December 6, 2012 (Preliminary Decision Memorandum).

[2] We preliminarily rescinded this review with respect to 25 other companies after GEO Specialty Chemicals, Inc. (GEO) submitted a timely request to withdraw its request for review of these companies. *See Preliminary Results,* 77 FR at 72817.

[3] *See* Preliminary Decision Memorandum for a complete description of the scope of the order.

product description of the scope of the order is dispositive.[4]

Background

On December 6, 2012, the Department published the *Preliminary Results* in the **Federal Register**. The Department provided interested parties with the opportunity to comment on the *Preliminary Results.* On January 7, 2013, Glycine & More, Inc. (Glycine & More), an affiliate of Baoding Mantong and U.S. importer of glycine, timely submitted a case brief commenting on our *Preliminary Results.* Domestic interested party GEO timely submitted rebuttal comments on January 14, 2013. We have analyzed the comments received and made no revisions to the preliminary antidumping duty rate assigned to the PRC-wide entity, including Baoding Mantong.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by parties in this review are addressed in the Memorandum to Paul Piquado, Assistant Secretary for Import Administration, from Edward C. Yang, Senior Director China/Non-Market Economy Unit, entitled, ''Issues and Decision Memorandum for the Final Results in the Antidumping Duty Administrative Review of Glycine From the People's Republic of China'' (Final Decision Memorandum), which is dated concurrently with, and adopted by, this notice. A list of the issues which parties raised, and to which we respond in the Final Decision Memorandum is attached to this notice as an Appendix. The Final Decision Memorandum is a public document and is on file electronically *via* Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building. In addition, a complete version of the Final Decision Memorandum can be accessed directly on the internet at *http://www.trade.gov/ia/.* The signed Final Decision Memorandum and the electronic versions of the Final Decision Memorandum are identical in content.

Rescission of Review in Part and PRC-Wide Entity

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party that requested the review withdraws the request within 90 days of the date of publication of the initiation notice of the requested review. As stated in the *Preliminary Results,* for 25 of the 26 companies for which the Department initiated this administrative review, GEO was the only party that requested the review. On July 30, 2012, GEO timely withdrew its review requests for all 26 companies. Therefore, with the exception of Baoding Mantong, which requested its own review and is the sole mandatory respondent in this proceeding, the Department preliminary rescinded the review for all other companies named in the *Initiation Notice.*[5]

For these final results, the Department is rescinding the review with respect to companies on which this review was initiated but had not previously received a separate rate status. As described above, GEO withdrew its review request covering these companies. While the review request was withdrawn in a timely manner, these companies have not previously received separate rate status and, as such, remain part of the PRC-wide entity. The Department did not rescind this review at the time of the preliminary results for those companies that had not timely withdrawn their request for review nor established their eligibility for a separate rate in this review, *i.e.,* Baoding Mantong, and are considered part of the PRC-wide entity which is under review.

Changes Since the Preliminary Results

Based on a review of the record and comments received from parties regarding our *Preliminary Results,* we have made no changes the antidumping duty rate assigned to the PRC-wide entity, including Baoding Mantong, in these final results of review.

Final Results of the Review

The Department has determined that the following weighted-average dumping margin exists for the period March 1, 2011, through February 29, 2012:

Exporter	Margin
PRC-wide entity (including Baoding Mantong Fine Chemistry Co., Ltd.)	453.79%

Assessment Rates

Consistent with these final results, and pursuant to section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.212(b)(1), the Department will direct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions to CBP 15 days after the date of publication of the final results of this review. We will instruct CBP to liquidate entries of subject merchandise exported by the PRC-wide entity at the *ad valorem* rate of 453.79 percent of entered value.

The Department previously announced a refinement to its assessment practice in non-market economy (NME) cases.[6] Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the NME-wide rate.[7]

Cash-Deposit Requirements

The following cash-deposit requirements will be effective upon publication of these final results of review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For the PRC-wide entity (including Baoding Mantong), the cash deposit rate will be the rate established in the final results of this review; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the exporter-specific rate; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

[4] *See Antidumping Duty Order: Glycine From the People's Republic of China,* 60 FR 16116 (March 29, 1995).

[5] *See* Appendix II for a list of these companies.

[6] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

[7] *Id.* at 65694.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period of review. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: April 1, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I

Comment 1: Baoding Mantong's Untimely Withdrawal of Review Request and Rescission of the Administrative Review with Respect to Baoding Mantong

Comment 2: The Department's Selection of the Adverse Facts Available Margin for Baoding Mantong

Appendix II

Companies Without Previous Separate Rates Status for Which the Review Request Was Withdrawn

1. A&A Pharmachem Inc.
2. Advance Exports
3. AICO Laboratories India Ltd.
4. Avid Organics Pvt. Ltd.
5. Chiyuen International Trading Ltd.
6. E-Heng Import and Export Co., Ltd.
7. General Ingredient Inc.
8. Hebei Donghua Chemical General Corporation
9. Hebei Donghua Jiheng Fine Chemical Co., Ltd.
10. Jiangsu Dongchang Chemical
11. Jizhou City Huayang Chemical Co., Ltd.
12. Kissner Milling Co. Ltd.
13. Nantong Dongchang Chemical Industrial Co. Ltd.
14. Ningbo Create-Bio Engineering Co. Ltd.
15. Nutracare International
16. Paras Intermediates Pvt. Ltd.
17. Qingdao Samin Chemical Co., Ltd.
18. Ravi Industries
19. Salvi Chemical Industries
20. Shanghai Waseta International Trading
21. Showa Denko K.K.
22. Tianjin Tiancheng Pharmaceutical Company
23. Wisent Pharma Inc.
24. XPAC Technologies Inc.
25. Yuki Gosei Kogyo Co., Ltd.

[FR Doc. 2013–08108 Filed 4–5–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Legal Services Trade Mission to China, September 16–18, 2013

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

The General Counsel of the United States Department of Commerce will lead a Legal Services Trade Mission to China, September 16–18, 2013. The purpose of the mission is to introduce U.S. law firms [1] without a presence in China to the Chinese market, to market U.S. legal services to Chinese companies and individuals, to raise awareness about the U.S. legal and business climate to Chinese companies interested in doing business in the U.S. market, and to further an ongoing dialogue with Chinese authorities on opening the Chinese legal services market to expanded practice by U.S. firms.

The trade mission will include stops in Beijing and Shanghai. In both cities, participants will receive market briefings to obtain key information from U.S. officials on the legal services environment in China. They will then participate in specially-tailored forums on U.S. legal services for audiences of Chinese persons seeking to do business in the United States and others seeking legal services in China and the United States. In addition, the trade mission will include opportunities for participants to have policy discussions with Chinese government officials in order to learn more about the regulatory landscape and present the benefits that U.S. law firms can provide to Chinese and U.S. companies. Joining the official U.S. Department of Commerce Trade Mission will enhance the participants' ability to engage in such meetings, which can be difficult to obtain when not accompanied by government officials. In addition to U.S. law firms, bar associations and other organizations that represent U.S. legal service providers are encouraged to apply.

Commercial Setting

As China seeks to transition from a manufacturing, export-based economy to a center of international business and finance, its need for sophisticated multinational legal and financial services is growing. Illustrating this trend, more than 200 foreign law firms currently have a presence in China.

In China, foreign lawyers are permitted to: provide clients with counsel with respect to the laws of the countries where they are qualified to practice and on international conventions and international practices; handle legal affairs in the country where the lawyers are qualified to practice law when entrusted to do so by their clients or Chinese law firms; entrust, on behalf of foreign clients, Chinese law firms to provide counsel on Chinese legal affairs; enter into contracts to maintain entrustment relationships with Chinese law firms; and provide their clients with information about the impact of the Chinese legal environment.

Within this rubric, opportunities exist for U.S. law firms providing legal services in China in a number of practice areas, including capital markets, mergers and acquisitions, international trade, inbound and outbound investment, shipping, intellectual property rights, arbitration,[2] life sciences, real estate, information technology and e-commerce, labor and employment, private equity, and venture capital.

The trade mission will also present opportunities for participants to engage with Chinese individuals, private companies, and state-owned enterprises, particularly those seeking to do business in the United States. Depending on the type of business, Chinese companies doing business in the United States could require legal services on United States laws for issues relating to taxation, employment, corporate finance, real estate, litigation, sale of goods, intellectual property rights,

[1] For purposes of this trade mission, a ''U.S. law firm'' is defined as a law firm that is formed under the laws of a U.S. state or the District of Columbia and with its principal place of business in the United States.

[2] Generally, foreign lawyers may represent clients in international or foreign-relation arbitral proceedings before the China International Economic and Trade Arbitration Commission (CIETAC) that do not involve Chinese legal affairs. Recent amendments to the rules that govern CIETAC permit arbitration before CIETAC to be held in languages other than Chinese.

customs and international trade, export controls, foreign corrupt practices, investment, and cross-border data flows, and many other legal practice areas.

Beijing

As the national capital, Beijing is the locus of China's central governmental authorities and provides an excellent base of operations for U.S. law firms entering the Chinese legal services market. The municipal government is promoting development in Beijing's high-technology and financial services sectors. Beijing's economic growth is primarily driven by the services sector, led by its financial services, tourism, healthcare, and IT sectors.

Beijing is an attractive location for U.S. law firms seeking clients who need legal advice on investing in and exporting to China. In 2009, Beijing municipal authorities unveiled financial incentives, including subsidies and tax breaks, for multinational companies that locate their regional headquarters in Beijing. In 2011, companies in Beijing received $2.9 billion in venture-capital financing, largely focused on the IT industry; this represented 40 percent of the national total and was more than twice the amount of venture-capital financing in Shanghai, China's second-largest destination for venture capital. Beijing is also set to benefit from $317 billion earmarked by the central government for investment in IT through 2015.

Shanghai

While Shanghai has long been considered China's commercial and financial capital, in 2009 China's State Council sought to advance Shanghai's position in the global economy by issuing an official blueprint for Shanghai to become an international financial and shipping center by 2020, on par with Hong Kong, New York, and London. The development of professional services, including legal services, is a key aspect of this blueprint.

Shanghai, by many economic indicators the largest economy of all cities in China, is an attractive market for U.S. law firms seeking business or expansion opportunities in China. Municipal government authorities reported that foreign direct investment in Shanghai reached $15.19 billion in 2012, up 20.5 percent from the previous year. The Shanghai Stock Exchange is the world's sixth largest in terms of trade value ($3.7 billion) and market capitalization ($2.4 billion), and experts expect initial public offerings in greater China (including the Hong Kong, Shenzhen, and Shanghai Stock Exchanges, which accounted for 40 percent of all IPO funds raised worldwide in 2011) to increase over the coming years.

More than 380 multinational companies have set up regional headquarters in Shanghai. This city has the highest percentage of foreign residents in China, with nine out of every 1,000 people coming from abroad. Income levels in Shanghai are among the highest in the country, exceeding those in Beijing, and its infrastructure is one of the most advanced in China.

Mission Scenario [3]

The mission will start in Beijing on Tuesday morning when U.S. Embassy officials will provide an overview of the Beijing political, economic and commercial environment, with a particular focus on market-entry rules and requirements and potential opportunities for foreign legal services providers in China. Following this market briefing, the trade mission participants will meet throughout the day with relevant authorities responsible for regulating legal services in China. Tuesday will conclude with a dinner and reception, to which the U.S. Ambassador to China will be invited.

On Wednesday, the U.S. Department of Commerce will host a forum on doing business in the United States specifically tailored to the expressed strengths and goals of the trade mission participants, during which the participants will have an opportunity to network with Chinese businesspersons who have expressed an interest in doing business in the United States and Chinese law firms interested in partnering with U.S. law firms. Wednesday afternoon, participants have the option to meet with their legal industry counterparts, likely including a Beijing-based bar association. Alternatively, participants may conduct follow-up meetings. The mission will travel to Shanghai on Wednesday night.

On Thursday morning, senior U.S. Consulate officials will provide mission participants with a Country Team Briefing, which will provide participants with an overview of the political, economic and commercial environment in Shanghai. The group will then meet key government authorities, likely including Shanghai municipal officials responsible for regulating legal services, and legal industry counterparts possibly to include the AmCham Legal Committee and a Shanghai-based bar association. Thursday afternoon, the U.S. Department of Commerce will host a forum on doing business in the United States specifically tailored to the expressed strengths and goals of the trade mission participants, during which the participants will have an opportunity to network with Chinese businesspersons who have expressed an interested in doing business in the United States and Chinese law firms interested in partnering with U.S. law firms. Participants may conduct follow-up meetings late Thursday afternoon. The day's events will conclude with a no-host or on-own dinner.

Trade mission participants will be counseled before and after the mission by Commerce staff. Participation in the mission will include the following:

- Pre-travel briefings on subjects relevant to the mission, for example business practices in China and personal security;
- Pre-scheduled meetings with government officials and representatives of the Chinese legal community;
- Transfers to and from airports and hotels in Beijing and Shanghai; and
- Networking receptions in Beijing and Shanghai.

Following the trade mission, participants are encouraged to consider utilizing additional for-fee services offered by the U.S. Department of Commerce's Commercial Service while in China to pursue additional opportunities in any of the mission cities or other cities throughout China. The Commercial Service offers a full range of export assistance services, including single company promotions and tailored matchmaking appointments and meetings (additional fees will be charged, and participants should arrange for such services in advance).

Proposed Timetable

Sunday, 9.15.2013	*Afternoon* Arrive Beijing.
Monday, 9.16.2013	*Morning* Breakfast meeting with U.S. Embassy officials.

[3] Mission Scenario events are subject to change based on availability.

	Meeting with relevant PRC/municipal officials. *Afternoon* Meeting with relevant PRC/municipal officials. *Evening* Dinner and reception.
Tuesday, 9.17.2013	*Morning* Forum on doing business in the United States. Networking with Chinese businesspersons, law firms and other potential business partners. *Afternoon* Meeting with Chinese bar association OR Opportunity for U.S. firms to conduct follow-up meetings. *Evening* Travel to Shanghai.
Wednesday, 9.18.2013	*Morning* Shanghai Consulate Briefing. Meeting with Shanghai (municipal-level) officials. Lunch meeting with Shanghai bar association OR AmCham Legal Committee. *Afternoon* Forum on doing business in the United States. Networking with Chinese businesspersons, law firms and other potential business partners. *Evening* No-host or On-own Dinner; mission concludes.

Participation Requirements

All parties interested in participating in the trade mission must complete and submit an application package for consideration by the U.S. Department of Commerce. Applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as provided in detail below.

Fees and Expenses

Applicants selected to participate on the mission will be required to pay a participation fee of $4,300 to the U.S. Department of Commerce. Applicants that qualify as small or medium-sized enterprises (SME),[4] and bar associations and other trade organizations, will pay a reduced participation fee of $4,000. The fee for each additional representative (for both large and small entities) is $800. After the mission, participants will have the opportunity to participate in matchmaking and other Commercial Service export assistance services in Beijing, Shanghai, or elsewhere in China; additional fees will be charged for such services.

[4] A legal services SME is defined as a law office or other provider of legal services with a maximum of $10 million in average annual receipts, or that otherwise qualifies as a small business under Small Business Administration (SBA) regulations (see *http://www.sba.gov/services/contractingopportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (see *http://www.export.gov/newsletter/march2008/initiatives.html* for additional information).

Exclusions

The mission fee does *not* include any personal travel expenses such as air transportation, lodging, most meals, and local ground transportation (transportation to and from airports in China and to and from meetings on the trade mission agenda will be provided). Participants will be able to take advantage of U.S. Government rates for hotel rooms. Participants will be required to obtain business visas, and Chinese fees and other processing expenses to obtain such visas are not included in the mission costs. The Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary business visas.

Conditions For Participation

Applicants must submit a completed and signed trade mission application and supplemental application materials, including adequate information on the applicant's services, primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, we may reject the application, request additional information/clarification, or otherwise take the lack of information into account when evaluating the applications.

In question 11 of the trade mission application, each applicant is asked to certify that the services it seeks to export as a result of the trade mission are either produced in the United States, or, if not, are marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content. If applicants find this requirement difficult to meet, or are unsure of whether they can certify this, we encourage them to indicate on the application form why the applicant firm's services should be considered for promotion during the mission, including how the firm's goals and objectives are consistent with the purpose of the mission.

In the case of a bar association or other trade organization, the applicant must certify that as part of its activities in this trade mission, it will represent the interests of members meeting the criteria discussed in the previous paragraph or provide an explanation of the type described in the previous paragraph.

In addition, as part of the trade mission application each applicant must:

- Certify that the services that it wishes to market through the mission would be in compliance with U.S. export controls and regulations;
- Certify that it has identified to the Department of Commerce for its evaluation any business pending before the Department that may present the appearance of a conflict of interest;
- Certify that it has identified any pending litigation (including any administrative proceedings) to which it is a party that involves the Department of Commerce; and
- Certify that it and its affiliates (1) have not and will not engage in the bribery of foreign officials in connection with a company's/participant's involvement in this mission, and (2) maintain and enforce a policy that prohibits the bribery of foreign officials.

Selection Criteria for Participation

The Department of Commerce intends to select 15 applicants to participate in

the trade mission. A minimum of 13 and maximum of 17 applicants will be selected to participate. In the event that fewer than 13 applicants are selected, Commerce may carry out the mission with the applicants it has selected; cancel the mission; or postpone it. Targeted mission participants include: U.S. law firms that have an interest in entering or expanding their business in the Chinese legal services market, or in providing legal services to Chinese companies or individuals in the U.S. market; and bar associations or other trade organizations that represent U.S. legal service providers that have such interests. The following criteria will be evaluated in selecting participants:

- Suitability of the applicant firm's (or in the case of an applicant bar association or other trade organization, represented legal service providers') services to the Chinese market, with respect either to providing services in China or legal services to Chinese companies in the United States.
- Applicant firm's (or in the case of an applicant bar association or other trade organization, represented legal service providers') potential for business in China, including likelihood of U.S. services exports resulting from the mission.
- Consistency of the applicant firm's (or in the case of a bar association or other trade organization, represented legal service providers') goals and objectives with the scope of the mission.

The Department of Commerce may also consider factors related to the designated representative that will participate in the mission on behalf of the applicant, including: his/her practice area and level of seniority; his/her experience conducting business in China; any experience opening a foreign law office; and whether he/she is admitted to practice law in the United States. As the Department is seeking a diverse group of participants, the size, location, and areas of expertise of the applicant may also be considered.

Referrals from political organizations and any documents, including the application, containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Timeframe for Recruitment and Application

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://www.export.gov/trademissions*) and other Internet Web sites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

Recruitment for this mission will begin immediately and conclude no later than August 16, 2013. The Department of Commerce will review applications and make selection decisions on a rolling basis beginning April 15, 2013 until the maximum number of participants is selected. Applications received after August 16, 2013 will be considered only if space and scheduling constraints permit.

Contacts

U.S. Department of Commerce, U.S. and Foreign Commercial Service

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U.S. Department of Commerce, Office of General Counsel

Brett Gerson, Attorney-Advisor, Office of the Chief Counsel for International Commerce, Washington, DC, Tel: 202.482.5595, Email: *bgerson@doc.gov*.

U.S. Embassy—Beijing

Mark A. Lewis, Commercial Officer, (t) 8610–8531–3280, (f) 8610–8531–3701, *mark.lewis@trade.gov*.

Elnora Moye,

Trade Program Assistant.

[FR Doc. 2013–08091 Filed 4–5–13; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

Renewable Energy and Energy Efficiency Advisory Committee

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an Open Meeting.

SUMMARY: The Renewable Energy and Energy Efficiency Advisory Committee (RE&EEAC) will hold a meeting on May 1, 2013. The meeting is open to the public and the room is disabled-accessible. Public seating is limited and available on a first-come, first-served basis.

DATES: May 1, 2013, from 9:30 a.m. to 4:30 p.m. Eastern Daylight Time (EDT). Members of the public wishing to attend the meeting must notify Ryan Mulholland at the contact information below by 5:00 p.m. EDT on Friday, April 26, 2013, in order to pre-register for clearance into the building. Please specify any requests for reasonable accommodation at least five business days in advance of the meeting. Last minute requests will be accepted, but may be impossible to fill.

ADDRESSES: The meeting will be held at the U.S. Department of Commerce, Room 1414, 1401 Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Ryan Mulholland, Office of Energy and Environmental Industries (OEEI), International Trade Administration, U.S. Department of Commerce at (202) 482–4693; email: *ryan.mulholland@trade.gov*. This meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to OEEI at (202) 482–4693.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of Commerce established the RE&EEAC pursuant to his discretionary authority and in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) on July 14, 2010. The RE&EEAC was re-chartered on June 18, 2012. The RE&EEAC provides the Secretary of Commerce with consensus advice from the private sector on the development and administration of programs and policies to enhance the international competitiveness of the U.S. renewable energy and energy efficiency industries.

The May 1, 2013 meeting of the RE&EEAC will consist of presentations from four industry-specific teams—renewable energy, energy efficiency, energy storage and transmission, and biofuels—on the market dynamics affecting their respective industry sectors; key export markets; challenges; and opportunities for further U.S. Government support and coordination. Additionally, the RE&EEAC will form subcommittees; receive presentations from representatives from the Overseas Private Investment Corporation and the Export-Import Bank of the United States; and receive presentations from officials from the U.S. Department of Defense (DOD) regarding DOD programs relating to the renewable energy and energy efficiency supply chain that may have linkages to promoting exports of renewable energy and energy efficiency goods and services.

A limited amount of time, from 3:00 p.m.–3:30 p.m., will be available for pertinent brief oral comments from members of the public attending the meeting. To accommodate as many

speakers as possible, the time for public comments will be limited to five minutes per person. Individuals wishing to reserve speaking time during the meeting must contact Mr. Mulholland and submit a brief statement of the general nature of the comments, as well as the name and address of the proposed participant by 5:00 p.m. EDT on Friday, April 26, 2013. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers. Speakers are requested to bring at least 20 copies of their oral comments for distribution to the participants and public at the meeting.

Any member of the public may submit pertinent written comments concerning the RE&EEAC's affairs at any time before or after the meeting. Comments may be submitted to the Renewable Energy and Energy Efficiency Advisory Committee, c/o: Ryan Mulholland, Office of Energy and Environmental Industries, U.S. Department of Commerce, Mail Stop: 4053, 1401 Constitution Avenue NW., Washington, DC 20230. To be considered during the meeting, written comments must be received no later than 5:00 p.m. EDT on Friday, April 26, 2013, to ensure transmission to the Committee prior to the meeting. Comments received after that date will be distributed to the members but may not be considered at the meeting.

Copies of RE&EEAC meeting minutes will be available within 30 days of the meeting.

Dated: April 2, 2013.

Edward A. O'Malley,

Director, Office of Energy and Environmental Industries.

[FR Doc. 2013–08145 Filed 4–5–13; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC609

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Surfclam and Ocean Quahog Advisory Panel will hold a public meeting.

DATES: The meeting will be held on May 3, 2013, from 10 a.m. until 5 p.m.

ADDRESSES: The meeting will be held at the Embassy Suites Philadelphia—Airport, 9000 Bartram Avenue, Philadelphia, PA 19153; telephone: (215) 365–4500.

Council address: Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to review fishery performance and create an Advisory Panel Fishery Performance Report for the surfclam and ocean quahogs fisheries in preparation for setting specifications for 2014–16. In addition, the Advisory Panel will review and provide comments on a proposed data collection protocol for the management of surfclam and ocean quahog individual transferable quotas (ITQs). Specifically, the proposed data collection protocol will be used to monitor and regulate ITQ ownership and lease activity in these fisheries. This data would then be used to support future development of an excessive shares cap by the Council.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: April 2, 2013.

William D. Chappell,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–07999 Filed 4–5–13; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Office of Consumer Outreach (OCO), Commodity Futures Trading Commission (CFTC), invites public comment on its proposed Information Collection Request (ICR), in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), for the Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery. The ICR has been submitted to the Office of Management and Budget (OMB) for approval, and describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before May 8, 2013.

ADDRESSES: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on January 28, 2013 (78 FR 5780). Comments were solicited and continue to be invited. Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses listed below. Please refer to OMB Control No. 3038–XXXX, Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery, in any correspondence: Nisha Smalls, Office of Consumer Outreach, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581 and Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Office for CFTC, 725 17th Street NW., Washington, DC 20503.

Comments may also be submitted by any of the following methods:

The agency's Web site at *http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.

Mail: Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

Hand Delivery/Courier: Same as mail above.

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Please submit your comments using only one method, and identify that it is for the **Federal Register** notice titled, Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

For Further Information Or a Copy Contact: Nisha Smalls, Office of Consumer Outreach, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581, (202) 418–5895; FAX: (202) 418–5541; email: *nsmalls@cftc.gov* and refer to this **Federal Register** notice.

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The information collection activity will consist of a variety of service delivery-focused activities over the next few years including consumer outreach and information-sharing with stakeholders that are responsive to stakeholders' needs and sensitive to changes in the consumer market. The proposed information collection activity will use similar methods for information collection or otherwise share common elements, and provide a means to gather qualitative customer and stakeholder feedback in an efficient, timely manner. By qualitative feedback we mean information that provides useful information on perceptions and opinions. The solicitation of information on delivery of consumer services will address such areas as appropriate messages, effective message delivery methods, and current consumer beliefs, psychographics and social norms that will assist the OCO in developing an outreach and communications campaign designed to change consumer behavior. Since these systems will use similar methods for information collection or otherwise share common elements, the OCO is proposing a generic clearance for this process which will allow the OCO to implement these systems and meet the obligations of the PRA without the delays of the normal clearance process.

Burden statement: The preliminary estimate of aggregate burden for this generic clearance follows. Since the statutory mandate behind the OCO's consumer outreach is new, the estimate of the number of respondents is a projection and could change significantly based on the collection method ultimately used in the research.

Respondents/Affected Entities: 240.

Estimated number of responses: 10 per year.

Estimated total annual burden on respondents: 2,400 responses.

Frequency of collection: once per request.

Average minutes per response: 120 minutes.

Estimated total annual burden hours requested: 4,800 hours.

Dated: April 3, 2013.

Melissa D. Jurgens,

Secretary of the Commission.

[FR Doc. 2013–08123 Filed 4–5–13; 8:45 am]

BILLING CODE 6351–01–P

[1] 17 CFR 145.9.

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities; Notice of Intent to Renew Collection: Market Surveys

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* 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 requirements relating to information collected to assist the Commission in the prevention of market manipulation.

DATES: Comments must be submitted on or before June 7, 2013.

ADDRESSES: Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses below. Please refer to OMB Control No. 3038–0017 in any correspondence. Comments may be mailed to Gary J. Martinaitmartinais, Division of Market Oversight, U.S. Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581, and Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for CFTC, 725 17th Street NW., Washington, DC 20503.

Comments may also be submitted by any of the following methods:

The agency's Web site, at *http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.

Mail: Melissa D. Jurgens, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

Hand Delivery/Courier: Same as mail above.

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Please submit your comments using only one method and identify that it is for the renewal of 3038–0017.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

FOR FURTHER INFORMATION CONTACT: Gary J. Martinaitis, (202) 418–5209; FAX: (202) 418–5527; email: *gmartinaitis@cftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, 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

[1] *See* 17 CFR 145.9.

requirement, the CFTC is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, the CFTC invites comments on:

• Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;

• The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

• Ways to minimize the burden of 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.

Market Surveys, OMB Control Number 3038–0017—Extension

Under Commission Regulation 21.02, upon call by the Commission, information must be furnished related to futures or options positions held or introduced by futures commission merchants, members of contract markets, introducing brokers, and foreign brokers and, in addition, for options positions, by each reporting market. This rule is designed to assist the Commission in prevention of market manipulation and is promulgated pursuant to the Commission's rulemaking authority contained in section 8a(5) of the Commodity Exchange Act, 7 U.S.C. 12a(5) (2010).

The Commission estimates the burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN

17 CFR Section	Annual number of respondents	Frequency of response	Total annual responses	Hours per response	Total hours
21.02	400	annually	400	1.75	700

Dated: April 3, 2013.

Melissa D. Jurgens,

Secretary of the Commission.

[FR Doc. 2013–08084 Filed 4–5–13; 8:45 am]

BILLING CODE 6351–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2013–0008]

Agency Information Collection Activities: Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau) is proposing to renew the approval for an existing information collection, titled, Report of Terms of Credit Card Plans.

DATES: Written comments are encouraged and must be received on or before June 7, 2013 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

• *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail/Hand Delivery/Courier:* Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552.

Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. In general, all comments received will be posted without change to regulations.gov, including any personal information provided. Sensitive personal information, such as account numbers or social security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.regulations.gov.* Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9575, or email: *CFPB_Public_PRA@cfpb.gov. Please do not submit comments to this mailbox.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Report of Terms of Credit Card Plans.

OMB Control Number: 3170–0001.

Bureau Form Number: FR 2572.

Type of Review: Extension without change of a currently approved collection.

Affected Public: Business or other for profits (financial institutions that offer credit cards).

Estimated Number of Respondents: 150.

Estimated Total Annual Burden Hours: 75.

Abstract: The Form FR 2572 collects data on credit card pricing and availability from a sample of at least 150 financial institutions that offer credit cards. The data enable the Bureau to present information to the public on terms of credit card plans.

Request for Comments: Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information shall have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

Dated: April 2, 2013.

Darrin A. King,

Paperwork Reduction Act Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2013–08116 Filed 4–5–13; 8:45 am]

BILLING CODE 4810–AM–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2013–0007]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau) is proposing a new generic clearance titled, Generic Clearance for Qualitative Consumer Education and Engagement Information Collections.

DATES: Written comments are encouraged and must be received on or before May 8, 2013 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail/Hand Delivery/Courier:* Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552.

Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. In general, all comments received will be posted without change to regulations.gov, including any personal information provided. Sensitive personal information, such as account numbers or social security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.reginfo.gov.* Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9575, or email: *CFPB_Public_PRA@cfpb.gov. Please do not submit comments to this email box.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Generic Clearance for Qualitative Consumer Education and Engagement Information Collections.

OMB Control Number: 3170–XXXX.

Type of Review: New generic collection.

Affected Public: Individuals or Households, and Business or other for-profit, not-for-profit institutions, Farms, Federal government, State, Local or Tribal government.

Estimated Number of Respondents: 3,000.

Estimated Total Annual Burden Hours: 15,000.

Abstract: Under the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, Section 1013(d), the Bureau's Office of Financial Education is responsible for developing and implementing initiatives intended to educate and empower consumers to make better informed financial decisions. The Bureau seeks to obtain approval of a generic clearance to collect qualitative data on effective strategies and consumer experiences from both financial education practitioners and consumers through a variety of methods, including in-person meetings, interviews, focus groups, qualitative surveys, online discussion forums, social media polls, and other qualitative methods as necessary. The information collected through these processes will increase the Bureau's understanding of consumers' financial experiences, financial education and empowerment programs, and practices that can improve financial decision-making skills and outcomes for consumers.

Request For Comments: The Bureau issued a 60-day **Federal Register** notice on January 15, 2013, 78 FR 2961. Comments were solicited and continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information shall have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

Dated: April 1, 2013.

Darrin A. King,

Paperwork Reduction Act Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2013–08115 Filed 4–5–13; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2013–0024]

Proposed Collection; Comment Request

AGENCY: United States Air Force Logistics Transformation Office (HQ USAF/A4IT), DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the United States Air Force Logistics Transformation Office announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 7, 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.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

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 Information Access Policy & Compliance Branch (SAF/A6PCF), Attn: Ms. Shannon N. Sanchez, 1800 AF Pentagon Suite 4D755, Washington, DC 20330 or call 703–695–6130.

Title; Associated Form; and OMB Number: Expeditionary Combat Support System (ECSS) Readiness Survey; OMB Control Number 0701–0157.

Needs and Uses: The information collection requirement is necessary to measure the knowledge and acceptance of the new system by potential users and their managers. The results will be used to gauge the effectiveness of program activities and identify necessary course corrections.

Affected Public: Business or other for profit.

Annual Burden Hours: 922.

Number of Respondents: 2767.

Responses per Respondent: 2.

Average Burden per Response: 10 minutes.

Frequency: Annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are U.S. Air Force contractors that use, provide information to, or use information from any of the current U.S. Air Force logistics computer systems; along with all other government personnel that use these systems. Responders will voluntarily complete a survey that asks about their knowledge and acceptance of the new system. The results will be used to gauge the effectiveness of program activities and identify necessary course corrections to ensure all personnel have received the information and education needed to transition to the new systems, policies, processes, and procedures.

Dated: March 29, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–08009 Filed 4–5–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings: **Filings Instituting Proceedings.**

Docket Numbers: RP13–716–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Neg Rate Agmt Filing (Exelon 40469) to be effective 4/1/2013.
Filed Date: 3/27/13.
Accession Number: 20130327–5071.
Comments Due: 5 p.m. ET 4/8/13.

Docket Numbers: RP13–717–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Neg Rate Agmt Filing (Florida 40097) to be effective 4/1/2013.
Filed Date: 3/27/13.
Accession Number: 20130327–5072.
Comments Due: 5 p.m. ET 4/8/13.

Docket Numbers: RP13–718–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Amendment to Neg Rate Agmts (QEP 36601–14, 15 and 37657–28) to be effective 4/1/2013.
Filed Date: 3/27/13.
Accession Number: 20130327–5073.
Comments Due: 5 p.m. ET 4/8/13.

Docket Numbers: RP13–719–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Neg Rate Cap Rel Agmt (ONEOK 34951 to BG 40671) to be effective 4/1/2013.
Filed Date: 3/27/13.
Accession Number: 20130327–5074.
Comments Due: 5 p.m. ET 4/8/13.

Docket Numbers: RP13–720–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Negotiated Rate—NJR Energy to be effective 4/1/2013.
Filed Date: 3/27/13.
Accession Number: 20130327–5100.
Comments Due: 5 p.m. ET 4/8/13.

Docket Numbers: RP13–721–000.
Applicants: Alliance Pipeline L.P.
Description: April 1–30 2013 to be effective 4/1/2013.
Filed Date: 3/27/13.
Accession Number: 20130327–5140.
Comments Due: 5 p.m. ET 4/8/13.

Docket Numbers: RP13–722–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Negotiated Rate—Macquarie LPS–RO to be effective 4/1/2013.
Filed Date: 3/27/13.
Accession Number: 20130327–5176.
Comments Due: 5 p.m. ET 4/8/13.

Docket Numbers: RP13–723–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: LSS and SS–2 Fuel Tracker Filing 2013 to be effective 4/1/2013.
Filed Date: 3/27/13.
Accession Number: 20130327–5198.
Comments Due: 5 p.m. ET 4/8/13.

Docket Numbers: RP13–724–000.
Applicants: Alliance Pipeline L.P.
Description: Petro-Canada name change to Suncor to be effective 3/27/2013.
Filed Date: 3/28/13.
Accession Number: 20130328–5001.
Comments Due: 5 p.m. ET 4/9/13.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated March 28, 2013.

Nathaniel J. Davis, Sr.

Deputy Secretary

[FR Doc. 2013–08053 Filed 4–5–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–830–001.
Applicants: J.P. Morgan Ventures Energy Corporation.
Description: J.P. Morgan Ventures Energy Corporation submits Cost-Based Tariffs Compliance Filing to be effective 4/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5225.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–894–000.
Applicants: Puget Sound Energy, Inc.
Description: Puget Sound Energy, Inc. submits Corrected FCSP ER11–3735 and ER13–894 to be effective N/A.
Filed Date: 3/29/13.
Accession Number: 20130329–5223.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1188–008.
Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Company submits Eighth Amendment to Wholesale Distribution Tariff Rate Case 2013 (WDT2), Western to be effective 6/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5185.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1188–009.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company submits Ninth Amendment to Wholesale Distribution Tariff Rate Case 2013 (WDT2), WPA to be effective 6/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5215.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1201–000.
Applicants: ALLETE, Inc.
Description: ALLETE, Inc. submits ALLETE Filing of Facilities Construction Agreement to be effective N/A.
Filed Date: 3/29/13.
Accession Number: 20130329–5240.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1202–000.
Applicants: Massachusetts Electric Company.
Description: Massachusetts Electric Company submits Interconnection Agreement between Massachusetts Electric Co. and Plainville to be effective 5/29/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5243.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1203–000.
Applicants: Brookfield Energy Marketing Inc.
Description: Brookfield Energy Marketing Inc. submits Category Seller Clarification to be effective 3/29/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5244.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1204–000.
Applicants: Brookfield Energy Marketing LP.
Description: Brookfield Energy Marketing LP submits Category Seller Clarification to be effective 3/29/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5246.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1205–000.
Applicants: Brookfield Renewable Energy Marketing US.
Description: Brookfield Renewable Energy Marketing US LLC submits Category Seller Clarification to be effective 3/29/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5249.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1206–000.
Applicants: PacifiCorp.
Description: PacifiCorp submits OATT Revised Schedules 3 and 3A to be effective 6/1/2013.
Filed Date: 4/1/13.
Accession Number: 20130401–5000.
Comments Due: 5 p.m. ET 4/22/13.

Docket Numbers: ER13–1207–000.
Applicants: PacifiCorp.
Description: PacifiCorp submits OATT Revised Attachment H–1 (Depreciation Rates) to be effective 6/1/2013.
Filed Date: 4/1/13.
Accession Number: 20130401–5001.
Comments Due: 5 p.m. ET 4/22/13.

Docket Numbers: ER13–1208–000.
Applicants: Wisconsin Electric Power Company.
Description: Wisconsin Electric Power Company submits wholesale formula rate adjustment for Montfort Wind Facility.
Filed Date: 3/29/13.
Accession Number: 20130329–5256.
Comments Due: 5 p.m. ET 4/19/13.

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: April 1, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–08055 Filed 4–5–13; 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: EC13–56–001.
Applicants: Wisconsin Public Service Corporation.
Description: Wisconsin Public Service Corporation resubmits compliance filing to the January 29, 2013 Commission Order.
Filed Date: 3/28/13.
Accession Number: 20130328–5243.
Comments Due: 5 p.m. ET 4/18/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1707–002; ER11–3623–001; ER11–3460–003.
Applicants: Hess Corporation, Hess Small Business Services LLC, Bayonne Energy Center, LLC.
Description: Supplement to January 24, 2013 Notice of Change in Status of Hess Corporation, et al.
Filed Date: 2/25/13.
Accession Number: 20130225–5158.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–894–000.
Applicants: Puget Sound Energy, Inc.
Description: FCSP ER11–3735 and ER13–894 to be effective N/A.
Filed Date: 3/25/13.
Accession Number: 20130325–5120.
Comments Due: 5 p.m. ET 4/15/13.

Docket Numbers: ER13–1047–001.
Applicants: Tesoro Refining & Marketing Company LLC.
Description: Amended MBR Tariff Filing to be effective 5/1/2013.
Filed Date: 3/28/13.
Accession Number: 20130328–5217.
Comments Due: 5 p.m. ET 4/18/13.

Docket Numbers: ER13–1101–001.
Applicants: Spectrum Nevada Solar, LLC.
Description: Amendment to Application and Initial Baseline Tariff Filing to be effective 4/24/2013.
Filed Date: 3/28/13.
Accession Number: 20130328–5178.
Comments Due: 5 p.m. ET 4/18/13.

Docket Numbers: ER13–1105–001.
Applicants: Duke Energy Carolinas, LLC.
Description: Joint OATT Florida CWIP Filing Amendment to be effective 7/2/2012.
Filed Date: 3/28/13.
Accession Number: 20130328–5167.
Comments Due: 5 p.m. ET 4/18/13.

Docket Numbers: ER13–1175–000.
Applicants: Wyoming Colorado Intertie, LLC.
Description: Revision to WCI—WWP Revised TSA to be effective 3/29/2013.
Filed Date: 3/28/13.
Accession Number: 20130328–5185.
Comments Due: 5 p.m. ET 4/18/13.

Docket Numbers: ER13–1176–000.
Applicants: New England Power Company.
Description: Interconnection Agreement Between New England

Power Co. and Ware Cogen to be effective 3/15/2013.

Filed Date: 3/28/13.

Accession Number: 20130328–5196.

Comments Due: 5 p.m. ET 4/18/13.

Docket Numbers: ER13–1177–000.

Applicants: East Kentucky Power Cooperative, Inc., PJM Interconnection, L.L.C.

Description: Revisions to the PJM OATT, OA & RAA re EKPC Integration to be effective 6/1/2013.

Filed Date: 3/28/13.

Accession Number: 20130328–5210.

Comments Due: 5 p.m. ET 4/18/13.

Docket Numbers: ER13–1178–000.

Applicants: East Kentucky Power Cooperative, Inc., PJM Interconnection, L.L.C.

Description: Revisions to the PJM CTOA re EKPC Integration to be effective 6/1/2013.

Filed Date: 3/28/13.

Accession Number: 20130328–5212.

Comments Due: 5 p.m. ET 4/18/13.

Docket Numbers: ER13–1179–000.

Applicants: East Kentucky Power Cooperative, Inc., PJM Interconnection, L.L.C.

Description: EKPC submits PJM SAs 3517 and 3518 re EKPC Integration to be effective 6/1/2013.

Filed Date: 3/28/13.

Accession Number: 20130328–5213.

Comments Due: 5 p.m. ET 4/18/13.

Docket Numbers: ER13–1180–000.

Applicants: PacifiCorp.

Description: PacifiCorp Energy Carbon Decommissioning Construction Agmt to be effective 3/29/2013.

Filed Date: 3/28/13.

Accession Number: 20130328–5222.

Comments Due: 5 p.m. ET 4/18/13.

Docket Numbers: ER13–1181–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: 03–28–2013 Attachment O–ATCLLC to be effective 5/27/2013.

Filed Date: 3/28/13.

Accession Number: 20130328–5240.

Comments Due: 5 p.m. ET 4/18/13.

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 29, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–08062 Filed 4–5–13; 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: EC13–82–000.

Applicants: Dominion Energy Brayton Point, LLC, Kincaid Generation, L.L.C., Elwood Energy, LLC.

Description: Section 203 Application of Dominion Energy Brayton Point, LLC, et al.

Filed Date: 3/21/13.

Accession Number: 20130321–5088.

Comments Due: 5 p.m. ET 5/20/13.

Docket Numbers: EC13–85–000

Applicants: BIV Generation Company, L.L.C., Colorado Power Partners, Rocky Mountain Power, LLC, San Joaquin Cogen, LLC.

Description: Application for Authorization for Disposition of Jurisdictional Facilities of BIV Generation Company, L.L.C., et al.

Filed Date: 3/26/13.

Accession Number: 20130326–5509.

Comments Due: 5 p.m. ET 4/16/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2985–009; ER10–3049–010; ER10–3051–010.

Applicants: Champion Energy Marketing LLC, Champion Energy Services, LLC, Champion Energy, LLC.

Description: Supplement to January 9, 2013 Updated Market Power Analysis for the Southwest Region of Champion Energy Marketing LLC, et al.

Filed Date: 3/26/13.

Accession Number: 20130326–5492.

Comments Due: 5 p.m. ET 4/16/13.

Docket Numbers: ER13–1165–000.

Applicants: American Electric Power Service Corporation, Ohio Power Company, AEP Ohio Transmission Company, Inc., PJM Interconnection, L.L.C.

Description: AEPSC submits 38th Revised Service Agreement No. 1336 among AEPSC & Buckeye to be effective 2/26/2013.

Filed Date: 3/26/13.

Accession Number: 20130326–5325.

Comments Due: 5 p.m. ET 4/16/13.

Docket Numbers: ER13–1166–000.

Applicants: PJM Interconnection, L.L.C.

Description: Revisions to the PJM OATT, OA & RAA removing obsolete references to ILR/ALM to be effective 5/28/2013.

Filed Date: 3/26/13.

Accession Number: 20130326–5444.

Comments Due: 5 p.m. ET 4/16/13.

Docket Numbers: ER13–1167–000.

Applicants: Delaware Municipal Electric Corporation, Inc.

Description: Delaware Municipal Electric Corporation, Inc. Initial Rate Schedule to be effective 5/1/2013.

Filed Date: 3/27/13.

Accession Number: 20130327–5016.

Comments Due: 5 p.m. ET 4/17/13.

Docket Numbers: ER13–1168–000.

Applicants: Wabash Valley Power Association, Inc.

Description: Wabash Valley Power Association, Inc. submits tariff filing per 35.13(a)(2)(iii: Amendments to Rate Schedules—Carroll White to be effective 5/27/2013 under ER13–1168 Filing Type: 10.

Filed Date: 3/27/13.

Accession Number: 20130327–5075.

Comments Due: 5 p.m. ET 4/17/13.

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 27, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–08059 Filed 4–5–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1817–003.
Applicants: Southwestern Public Service Company.
Description: Second Supplement to June 29, 2012 Triennial Market Power Analysis of Southwestern Public Service Company.
Filed Date: 4/1/13.
Accession Number: 20130401–5222.
Comments Due: 5 p.m. ET 4/22/13.

Docket Numbers: ER12–1175–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits a status report and waiver extension request.
Filed Date: 10/23/12.
Accession Number: 20121023–5131.
Comments Due: 5 p.m. ET 4/8/13.

Docket Numbers: ER13–607–001.
Applicants: Potomac Electric Power Company, Delmarva Power & Light Company, PJM Interconnection, L.L.C.
Description: Potomac Electric Power Company submits Pepco & DPL submit Compliance filing per 2/28/2013 Order in ER13–607 to be effective 3/1/2013.
Filed Date: 4/1/13.
Accession Number: 20130401–5256.
Comments Due: 5 p.m. ET 4/22/13.

Docket Numbers: ER13–752–002.
Applicants: Energy Storage Holdings, LLC.
Description: Energy Storage Holdings, LLC submits Second Amendment to Energy Storage Holdings, LLC MBR Application to be effective 1/12/2013.
Filed Date: 4/1/13.
Accession Number: 20130401–5168.
Comments Due: 5 p.m. ET 4/22/13.

Docket Numbers: ER13–1118–001.
Applicants: Oklahoma Gas and Electric Company.
Description: Oklahoma Gas and Electric Company submits Rate Schedule No. 106 to be effective 5/31/2013.
Filed Date: 4/1/13.
Accession Number: 20130401–5165.
Comments Due: 5 p.m. ET 4/22/13.

Docket Numbers: ER13–1209–000.
Applicants: New England Power Pool Participants Committee.
Description: New England Power Pool Participants Committee submits Apr 2013 Membership Filing to be effective 4/1/2013.
Filed Date: 4/1/13.
Accession Number: 20130401–5106.
Comments Due: 5 p.m. ET 4/22/13.

Docket Numbers: ER13–1210–000.
Applicants: Westar Generating, Inc.
Description: Westar Generating, Inc. submits Purchase Power Agreement with Westar Energy, Inc. to be effective 7/1/2013.
Filed Date: 4/1/13.
Accession Number: 20130401–5110.
Comments Due: 5 p.m. ET 4/22/13.

Docket Numbers: ER13–1211–000.
Applicants: Public Service Company of New Mexico.
Description: Public Service Company of New Mexico submits Modification of Real Power Loss Factor SA to be effective 6/1/2013.
Filed Date: 4/1/13.
Accession Number: 20130401–5171.
Comments Due: 5 p.m. ET 4/22/13.

Docket Numbers: ER13–1212–000.
Applicants: Public Service Company of New Mexico.
Description: Public Service Company of New Mexico Modification of Real Power Loss Factor in OATT to be effective 6/1/2013.
Filed Date: 4/1/13.
Accession Number: 20130401–5173.
Comments Due: 5 p.m. ET 4/22/13.

Docket Numbers: ER13–1213–000.
Applicants: Public Service Company of New Mexico.
Description: Public Service Company of New Mexico submits Cancellation of Service Agreement to be effective 6/1/2013.
Filed Date: 4/1/13.
Accession Number: 20130401–5174.
Comments Due: 5 p.m. ET 4/22/13.

Docket Numbers: ER13–1214–000.
Applicants: NV Energy, Inc.
Description: NV Energy, Inc. submits OATT Revisions to Schedule 04—Energy Imbalance—Compliance Filing to be effective 3/1/2013.
Filed Date: 4/1/13.
Accession Number: 20130401–5201.
Comments Due: 5 p.m. ET 4/22/13.

Docket Numbers: ER13–1215–000.
Applicants: Wolverine Power Supply Cooperative, Inc.
Description: Wolverine Power Supply Cooperative, Inc. submits Normal filing schedule no 16 to be effective 4/1/2013.
Filed Date: 4/1/13.
Accession Number: 20130401–5217.
Comments Due: 5 p.m. ET 4/22/13.

Docket Numbers: ER13–1216–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits Unexecuted LGIA with CalWind Resources, Inc. for Pajuela Peak Wind Park Project to be effective 3/29/2013.
Filed Date: 4/1/13.
Accession Number: 20130401–5233.
Comments Due: 5 p.m. ET 4/22/13.

Docket Numbers: ER13–1217–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits Queue Position W4–084; Original Service Agreement No. 3520 to be effective 3/1/2013.
Filed Date: 4/1/13.
Accession Number: 20130401–5235.
Comments Due: 5 p.m. ET 4/22/13.

Docket Numbers: ER13–1218–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits Queue Position W4–086; Original Service Agreement No. 3521 to be effective 3/1/2013.
Filed Date: 4/1/13.
Accession Number: 20130401–5237.
Comments Due: 5 p.m. ET 4/22/13.

Docket Numbers: ER13–1219–000.
Applicants: Public Service Company of New Mexico.
Description: Application of Public Service Company of New Mexico to Terminate OATT Service Agreement with Third Planet Wind Gladstone, LLC.
Filed Date: 4/1/13.
Accession Number: 20130401–5251.
Comments Due: 5 p.m. ET 4/22/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

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Dated: April 1, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–08056 Filed 4–5–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–744–000.
Applicants: Trailblazer Pipeline Company LLC.
Description: Fuel Tracker Filing to be effective 5/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5002.
Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: RP13–747–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: East Tennessee Natural Gas, LLC submits is cashout report for the period November 2011 through October 2012.
Filed Date: 3/29/13.
Accession Number: 20130329–5062.
Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: RP13–748–000.
Applicants: Northern Natural Gas Company.
Description: 20130329 Semco Non-conforming to be effective 5/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5089.
Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: RP13–749–000.
Applicants: Northern Natural Gas Company.
Description: 20130329 Negotiated Rate to be effective 4/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5090.
Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: RP13–750–000.
Applicants: Kern River Gas Transmission Company.
Description: 2013 Gas Compressor Fuel Report of Kern River Gas Transmission Company.
Filed Date: 3/29/13.
Accession Number: 20130329–5140.
Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: RP13–751–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: Algonquin Gas Transmission, LLC submits tariff filing per 154.204: Contracting Processes Mar2013 Filing to be effective 5/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5150.
Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: RP13–752–000.
Applicants: Big Sandy Pipeline, LLC.
Description: Big Sandy Pipeline, LLC submits tariff filing per 154.204: Contracting Processes Mar2013 Filing to be effective 5/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5160.
Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: RP13–753–000.
Applicants: Maritimes & Northeast Pipeline, L.L.C.
Description: Maritimes & Northeast Pipeline, L.L.C. submits tariff filing per 154.204: Contracting Processes Mar2013 Filing to be effective 5/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5175.
Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: RP13–754–000.
Applicants: Steckman Ridge, LP.
Description: Steckman Ridge, LP submits tariff filing per 154.204: Contracting Processes Mar2013 Filing to be effective 5/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5181.
Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: RP13–755–000.
Applicants: Texas Eastern Transmission, LP.
Description: Texas Eastern Transmission, LP submits tariff filing per 154.204: Contracting Proceses Mar2013 Filing to be effective 5/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5184.
Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: RP13–756–000.
Applicants: Bobcat Gas Storage.
Description: Bobcat Gas Storage submits tariff filing per 154.204: Contracting Processes Mar2013 Filing to be effective 5/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5186.
Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: RP13–757–000.
Applicants: Egan Hub Storage, LLC.
Description: Egan Hub Storage, LLC submits tariff filing per 154.204: Contracting Processes Mar2013 Filing to be effective 5/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5187.
Comments Due: 5 p.m. ET 4/10/13.
Docket Numbers: RP13–758–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: East Tennessee Natural Gas, LLC submits tariff filing per 154.204: Contracting Processes Mar2013 Filing to be effective 5/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5188.
Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: RP13–759–000.
Applicants: Ozark Gas Transmission, L.L.C.
Description: Ozark Gas Transmission, L.L.C. submits tariff filing per 154.204: Contracting Processes Mar2013 Filing to be effective 5/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5189.
Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: RP13–760–000.
Applicants: Saltville Gas Storage Company L.L.C.
Description: Saltville Gas Storage Company L.L.C. submits tariff filing per 154.204: Contracting Processes Mar2013 Filing to be effective 5/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5190.
Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: RP13–761–000.
Applicants: Colorado Interstate Gas Company, L.L.C.
Description: Colorado Interstate Gas Company, L.L.C. submits tariff filing per 154.204: Non Conforming TSA and Points of Contact Update Filing to be effective 5/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5236.
Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: RP13–762–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: Transcontinental Gas Pipe Line Company, LLC submits tariff filing per 154.204: Negotiated Rates—Momentum—Liberty GA to be effective 4/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5239.
Comments Due: 5 p.m. ET 4/10/13.

Docket Numbers: RP13–763–000.
Applicants: ANR Pipeline Company.
Description: ANR Pipeline Company submits tariff filing per 154.601: Integrys_Wisconsin Electric Agmts to be effective 4/1/2013.
Filed Date: 4/1/13.
Accession Number: 20130401–5048.
Comments Due: 5 p.m. ET 4/15/13.

Docket Numbers: RP13–764–000.
Applicants: Petal Gas Storage, L.L.C.
Description: Petal Gas Storage, L.L.C. submits tariff filing per 154.204: Update System Map to be effective 5/1/2013.
Filed Date: 4/1/13.
Accession Number: 20130401–5054.
Comments Due: 5 p.m. ET 4/15/13.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP13–574–001.
Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: Tennessee Gas Pipeline Company, L.L.C. submits tariff filing per 154.203: Multiple Agency Arrangement Option to be effective 3/21/2013.

Filed Date: 3/29/13.

Accession Number: 20130329–5245.

Comments Due: 5 p.m. ET 4/10/13.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 1, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–08058 Filed 4–5–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–765–000.

Applicants: CenterPoint Energy—Mississippi River T.

Description: Negotiated Rate Filing for CES #5375 for 4/1/13 to be effective 4/1/2013.

Filed Date: 4/1/13.

Accession Number: 20130401–5094.

Comments Due: 5 p.m. ET 4/15/13.

Docket Numbers: RP13–766–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: 04/01/13 Negotiated Rates—Conoco Phillips (RTS) 3015–26 & 27 to be effective 4/1/2013.

Filed Date: 4/1/13.

Accession Number: 20130401–5096.

Comments Due: 5 p.m. ET 4/15/13.

Docket Numbers: RP13–767–000.

Applicants: Columbia Gas Transmission, LLC.

Description: OTRA—April 2013 to be effective 5/1/2013.

Filed Date: 4/1/13.

Accession Number: 20130401–5109.

Comments Due: 5 p.m. ET 4/15/13.

Docket Numbers: RP13–768–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Cap Rel Neg Rate Agmt (HK 37731 to BP 40762) to be effective 4/1/2013.

Filed Date: 4/1/13.

Accession Number: 20130401–5124.

Comments Due: 5 p.m. ET 4/15/13.

Docket Numbers: RP13–769–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Cap Rel Neg Rate Agmt (HK 37731, 37733 to Texla 40766, 40768) to be effective 4/1/2013.

Filed Date: 4/1/13.

Accession Number: 20130401–5127.

Comments Due: 5 p.m. ET 4/15/13.

Docket Numbers: RP13–770–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Cap Rel Neg Rate Agmt Filing (HK 37731 to Sequent 40767) to be effective 4/1/2013.

Filed Date: 4/1/13.

Accession Number: 20130401–5131.

Comments Due: 5 p.m. ET 4/15/13.

Docket Numbers: RP13–771–000.

Applicants: CenterPoint Energy Gas Transmission Comp.

Description: CenterPoint Energy Gas Transmission Company, LLC submits tariff filing per 154.204: CEGT LLC—2013—Negotiated Rate Filing—April to be effective 4/1/2013.

Filed Date: 4/1/13.

Accession Number: 20130401–5192.

Comments Due: 5 p.m. ET 4/15/13.

Docket Numbers: RP13–772–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: 04/01/13 Negotiated Rates—Emera Energy Services, Inc (RTS) 2715–07 & 08 to be effective 4/1/2013.

Filed Date: 4/1/13.

Accession Number: 20130401–5195.

Comments Due: 5 p.m. ET 4/15/13.

Docket Numbers: RP13–773–000.

Applicants: Hardy Storage Company, LLC.

Description: RAM 2013 to be effective 5/1/2013.

Filed Date: 4/1/13.

Accession Number: 20130401–5236.

Comments Due: 5 p.m. ET 4/15/13.

Docket Numbers: RP13–774–000.

Applicants: Texas Eastern Transmission, LP.

Description: Negotiated Rate Filing Chesapeake to be effective 4/1/2013.

Filed Date: 4/1/13.

Accession Number: 20130401–5253.

Comments Due: 5 p.m. ET 4/15/13.

Docket Numbers: RP13–775–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: ConEd April 2013 Release 510371 to be effective 4/1/2013.

Filed Date: 4/1/13.

Accession Number: 20130401–5270.

Comments Due: 5 p.m. ET 4/15/13.

Docket Numbers: RP13–776–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: Algonquin Gas Transmission, LLC submits tariff filing per 154.204: VPEM 510295 Permanent Capacity Release to be effective 4/1/2013.

Filed Date: 4/1/13.

Accession Number: 20130401–5310.

Comments Due: 5 p.m. ET 4/15/13.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP13–527–002.

Applicants: Boardwalk Storage Company, LLC.

Description: Correction to correction compliance filing in Docket No. RP13–527–001 to be effective 3/3/2013.

Filed Date: 4/1/13.

Accession Number: 20130401–5186.

Comments Due: 5 p.m. ET 4/15/13.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 2, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–08104 Filed 4–5–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–1179–004.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits Informational Filing of Integrated Marketplace Readiness Metrics and Reversion Plan in compliance with the October 18, 2012 order.

Filed Date: 3/25/13.

Accession Number: 20130325–5211.

Comments Due: 5 p.m. ET 4/15/13.

Docket Numbers: ER13–1169–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits 2013–03–27 Attachment MM Clean Up to be effective 6/1/2013.

Filed Date: 3/27/13.

Accession Number: 20130327–5098.

Comments Due: 5 p.m. ET 4/17/13.

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 27, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–08060 Filed 4–5–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3310–004.

Applicants: New Harquahala Generating Company, LLC.

Description: Triennial Market Power Report of New Harquahala Generating Company, LLC for Southwest Region.

Filed Date: 3/29/13.

Accession Number: 20130329–5213.

Comments Due: 5 p.m. ET 5/28/13.

Docket Numbers: ER13–894–001.

Applicants: Puget Sound Energy, Inc.

Description: Puget Sound Energy, Inc. submits OATT Correction to Schedule 3 to be effective 1/5/2012.

Filed Date: 3/29/13.

Accession Number: 20130329–5172.

Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1182–000.

Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.

Description: National Grid revisions to OATT Wholesale TSC Formula to be effective 7/1/2013.

Filed Date: 3/29/13.

Accession Number: 20130329–5045.

Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1183–000.

Applicants: Maine Public Service Company.

Description: NITS Service Agreement with Houlton Water Co. to be effective 3/1/2013.

Filed Date: 3/29/13.

Accession Number: 20130329–5059.

Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1184–000.

Applicants: Entergy Power, LLC.

Description: CBR Tariff to be effective 6/1/2013.

Filed Date: 3/29/13.

Accession Number: 20130329–5060.

Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1185–000.

Applicants: Westar Energy, Inc.

Description: KEPCo, Revision to Attachment A—Delivery Points (06/01/13) to be effective 6/1/2013.

Filed Date: 3/29/13.

Accession Number: 20130329–5070.

Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1186–000.

Applicants: MidAmerican Energy Company, Midwest Independent Transmission System Operator, Inc.

Description: MidAmerican Energy Company submits 2013–03–29 MidAm Att GG Annual True-Up to be effective 6/1/2013.

Filed Date: 3/29/13.

Accession Number: 20130329–5087.

Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1187–000.

Applicants: Midwest Independent Transmission System Operator, Inc., MidAmerican Energy Company.

Description: Midwest Independent Transmission System Operator, Inc. submits 2013–03–29 MidAm Att O Depreciation Rates to be effective 6/1/2013.

Filed Date: 3/29/13.

Accession Number: 20130329–5088.

Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1188–000.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Company submits Wholesale Distribution Tariff Rate Case 2013 (WDT2) to be effective 6/1/2013.

Filed Date: 3/29/13.

Accession Number: 20130329–5091.

Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1188–001.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Company submits First Amendment to Wholesale Distribution Tariff Rate Case 2013 (WDT2), CCSF to be effective 6/1/2013.

Filed Date: 3/29/13.

Accession Number: 20130329–5110.

Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1188–002.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Company submits Second Amendment to Wholesale Distribution Tariff Rate Case 2013 (WDT2), HMU to be effective 6/1/2013.

Filed Date: 3/29/13.

Accession Number: 20130329–5123.

Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1188–003.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Company submits Third Amendment to Wholesale Distribution Tariff Rate Case 2013 (WDT2), LID to be effective 6/1/2013.

Filed Date: 3/29/13.

Accession Number: 20130329–5125.

Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1188–004.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Company submits Fourth Amendment to Wholesale Distribution Tariff Rate Case 2013 (WDT2), MRID to be effective 6/1/2013.

Filed Date: 3/29/13.

Accession Number: 20130329–5131.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1188–005.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company submits Fifth Amendment to Wholesale Distribution Tariff Rate Case 2013 (WDT2), PWRPA 30 to be effective 6/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5135.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1188–006.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company submits Sixth Amendment to Wholesale Distribution Tariff Rate Case 2013 (WDT2), PWRPA 56 to be effective 6/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5166.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1188–007.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company submits Seventh Amendment to Wholesale Distribution Tariff Rate Case 2013 (WDT2), S Cove to be effective 6/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5180.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1189–000.
Applicants: Champion Energy Marketing LLC.
Description: Champion Energy Marketing LLC submits Revision to market-based rates tariff to be effective 3/30/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5137.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1190–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits Retail Rate Design Single Issue Filing to be effective 4/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5139.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1191–000.
Applicants: Champion Energy Services, LLC.
Description: Champion Energy Services, LLC submits Revision to market-based rates tariff to be effective 3/30/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5142.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1192–000.
Applicants: Hess Energy Marketing LLC.
Description: Hess Energy Marketing LLC submits Application for Market-Based Rate Authorization to be effective 5/13/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5154.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1193–000.
Applicants: Puget Sound Energy, Inc.
Description: Puget Sound Energy, Inc. submits Morgan Stanley TX Agreements 662 & 663 to be effective 6/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5159.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1194–000.
Applicants: Entergy Services, Inc.
Description: Entergy Services, Inc., on behalf of Entergy Arkansas, Inc. submittal of 2013 Wholesale Rate Update for AECC under the PCITSA.
Filed Date: 3/29/13.
Accession Number: 20130329–5161.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1195–000.
Applicants: Entergy Services, Inc.
Description: Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., files 2013 Wholesale Rate Update for Arkansas Cities.
Filed Date: 3/29/13.
Accession Number: 20130329–5162.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1196–000.
Applicants: Champion Energy, LLC.
Description: Champion Energy, LLC submits Revision to market-based rates tariff to be effective 3/30/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5170.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1197–000.
Applicants: Public Service Company of Colorado.
Description: 2012 Production Formula Rate Charges and Transmission Formula Rate Charges for Post-Retirement Benefits Other than Pensions of Public Service Company of Colorado.
Filed Date: 3/29/13.
Accession Number: 20130329–5183.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1198–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits OATT & OA revisions re Stage 1A increased capability limits to be effective 5/9/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5218.
Comments Due: 5 p.m. ET 4/8/13.

Docket Numbers: ER13–1199–000.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc. submits NYISO tariff filing regarding credit requirements for External Transactions to be effective 6/12/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5222.
Comments Due: 5 p.m. ET 4/19/13.

Docket Numbers: ER13–1200–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits Revisions to the OATT & OA re Lost Opportunity Cost Compensation Limitations to be effective 6/1/2013.
Filed Date: 3/29/13.
Accession Number: 20130329–5224.
Comments Due: 5 p.m. ET 4/19/13.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH13–14–000.
Applicants: WETT Holdings LLC.
Description: WETT Holdings LLC submits FERC–65–B Waiver Notification.
Filed Date: 3/29/13.
Accession Number: 20130329–5130.
Comments Due: 5 p.m. ET 4/19/13.

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 29, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–08054 Filed 4–5–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–725–000.
Applicants: Panhandle Eastern Pipe Line Company, LP.
Description: Flow Through of Cash-Out Revenues filed on 3–28–13.
Filed Date: 3/28/13.
Accession Number: 20130328–5022.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: RP13–726–000.
Applicants: Panhandle Eastern Pipe Line Company, LP.
Description: Flow Through of Penalty Revenues Report filed on 3–28–13.
Filed Date: 3/28/13.
Accession Number: 20130328–5023.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: RP13–727–000.
Applicants: Vector Pipeline L.P.
Description: Annual Fuel Use Report of Vector Pipeline L.P.
Filed Date: 3/28/13.
Accession Number: 20130328–5029.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: RP13–728–000.
Applicants: ANR Storage Company.
Description: Tenaska Gas Storage Agmt to be effective 4/1/2013.
Filed Date: 3/28/13.
Accession Number: 20130328–5032.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: RP13–729–000.
Applicants: Gulf Crossing Pipeline Company LLC.
Description: Cap Rel Neg Rate Agmt Filing (Vanguard 597, 598 to Tenaska 860, 861) to be effective 4/1/2013.
Filed Date: 3/28/13.
Accession Number: 20130328–5035.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: RP13–730–000.
Applicants: Texas Gas Transmission, LLC.
Description: Amendment to Non-conforming Agreement (MacQuarie Cook 26833) to be effective 4/1/2013.
Filed Date: 3/28/13.
Accession Number: 20130328–5036.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: RP13–731–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Amendment to Neg Rate Agmt (Devon 34694–46) to be effective 4/1/2013.
Filed Date: 3/28/13.
Accession Number: 20130328–5037.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: RP13–732–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Interstate Power Negotiated Rate to be effective 4/1/2013.
Filed Date: 3/28/13.
Accession Number: 20130328–5066.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: RP13–733–000.
Applicants: Elba Express Company, L.L.C.
Description: Annual Interruptible Revenue Crediting Report of Elba Express Company, L.L.C.
Filed Date: 3/28/13.
Accession Number: 20130328–5073.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: RP13–734–000.
Applicants: Carolina Gas Transmission Corporation.
Description: Rainbow Non-Conforming Agreement Tariff Filing to be effective 5/1/2013.
Filed Date: 3/28/13.
Accession Number: 20130328–5104.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: RP13–735–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Nicor Negotiated Rate to be effective 4/1/2013.
Filed Date: 3/28/13.
Accession Number: 20130328–5116.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: RP13–736–000.
Applicants: Fayetteville Express Pipeline LLC.
Description: FEP 2013 Hub Area—Point Addition Filing to be effective 5/1/2013.
Filed Date: 3/28/13.
Accession Number: 20130328–5136.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: RP13–737–000.
Applicants: Rockies Express Pipeline LLC.
Description: Annual Incidental Purchase and Sales Report of Rockies Express Pipeline LLC.
Filed Date: 3/28/13.
Accession Number: 20130328–5137.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: RP13–738–000.
Applicants: Pine Needle LNG Company, LLC.
Description: 2013 Annual Fuel and Electric Power Tracker Filing to be effective 5/1/2013.
Filed Date: 3/28/13.
Accession Number: 20130328–5140.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: RP13–739–000.
Applicants: UGI Storage Company.
Description: UGI Storage Compliance Filing TL–96 to be effective 4/1/2013.
Filed Date: 3/28/13.
Accession Number: 20130328–5161.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: RP13–740–000.
Applicants: Columbia Gulf Transmission, LLC.
Description: Negotiated Rate Service Agreement—BG Energy Merchants—140986 to be effective 4/1/2013.
Filed Date: 3/28/13.
Accession Number: 20130328–5191.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: RP13–741–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 03/28/13 Negotiated Rates—United Energy Trading, LLC (RTS) 5095–18 & 19 to be effective 4/1/2013.
Filed Date: 3/28/13.
Accession Number: 20130328–5211.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: RP13–742–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 03/28/13 Negotiated Rates—JP Morgan Ventures Energy Corp. (RTS) 6025–44 & 45 to be effective 4/1/2013.
Filed Date: 3/28/13.
Accession Number: 20130328–5214.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: RP13–743–000.
Applicants: ANR Pipeline Company.
Description: DTCA 2013 to be effective 5/1/2013.
Filed Date: 3/28/13.
Accession Number: 20130328–5215.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: RP13–745–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Penalty Revenue Crediting Report of Natural Gas Pipeline Company of America LLC.
Filed Date: 3/28/13.
Accession Number: 20130328–5246.
Comments Due: 5 p.m. ET 4/9/13.

Docket Numbers: RP13–746–000.
Applicants: TC Offshore LLC.
Description: TC Offshore LLC Transporter's Use Report for 2012.
Filed Date: 3/28/13.
Accession Number: 20130328–5247.
Comments Due: 5 p.m. ET 4/9/13.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP13–431–001.
Applicants: Dominion Transmission, Inc.
Description: DTI—Compliance Filing—Reservation Charge Crediting to be effective 3/1/2013.
Filed Date: 3/28/13.
Accession Number: 20130328–5143.
Comments Due: 5 p.m. ET 4/9/13.

Any person desiring to protest in any the above proceedings must file in

accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated March 29, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–08057 Filed 4–5–13; 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: EC13–86–000.
Applicants: ITC Midwest LLC.
Description: Application for Approval of Acquisition of Transmission Assets of ITC Midwest LLC.
Filed Date: 3/27/13.
Accession Number: 20130327–5220.
Comments Due: 5 p.m. ET 4/17/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2417–001.
Applicants: ExxonMobil Baton Rouge Complex.
Description: Compliance filing to be effective 8/26/2010.
Filed Date: 3/28/13.
Accession Number: 20130328–5040.
Comments Due: 5 p.m. ET 4/18/13.

Docket Numbers: ER12–1378–000.
Applicants: Cleco Power LLC.
Description: Transmission Rate Case Refund Report to be effective N/A.
Filed Date: 3/28/13.
Accession Number: 20130328–5000.
Comments Due: 5 p.m. ET 4/18/13.

Docket Numbers: ER13–122–001.
Applicants: ExxonMobil Beaumont Complex.
Description: Compliance filing to be effective 10/16/2012.
Filed Date: 3/28/13.
Accession Number: 20130328–5106.
Comments Due: 5 p.m. ET 4/18/13.

Docket Numbers: ER13–123–001.
Applicants: ExxonMobil LaBarge Shute Creek Treating.
Description: Compliance filing to be effective 10/16/2012.
Filed Date: 3/28/13.
Accession Number: 20130328–5105.
Comments Due: 5 p.m. ET 4/18/13.

Docket Numbers: ER13–534–002.
Applicants: Mammoth One, LLC.
Description: Notice of Non-Material Change-in-Status of Mammoth One, LLC.
Filed Date: 3/27/13.
Accession Number: 20130327–5212.
Comments Due: 5 p.m. ET 4/17/13.

Docket Numbers: ER13–818–001.
Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.
Description: Refiling of SA 1951 to provide improved legibility of 1/29/13 filing (FID 648) to be effective 11/9/2012.
Filed Date: 3/28/13.
Accession Number: 20130328–5041.
Comments Due: 5 p.m. ET 4/18/13.

Docket Numbers: ER13–1170–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Attachment P Cleco GFAs to be effective 12/19/2013.
Filed Date: 3/27/13.
Accession Number: 20130327–5169.
Comments Due: 5 p.m. ET 4/17/13.

Docket Numbers: ER13–1171–000.
Applicants: Northern States Power Company, a Wisconsin corporation.
Description: Northern States Power Company, a Wisconsin corporation submits its 2012 Formula Rate Charges for Post-Retirement Benefits Other than Pensions.
Filed Date: 3/27/13.
Accession Number: 20130327–5205.
Comments Due: 5 p.m. ET 4/17/13.

Docket Numbers: ER13–1172–000.
Applicants: Southern California Edison Company.
Description: Letter Agreement with Wellhead Renewable Energy, LLC to be effective 3/22/2013 under ER13–1172 Filing Type: 10.
Filed Date: 3/28/13.
Accession Number: 20130328–5096.
Comments Due: 5 p.m. ET 4/18/13.

Docket Numbers: ER13–1173–000.
Applicants: Southwest Power Pool, Inc.
Description: Integrated Marketplace Modifications Filing to be effective 3/1/2014.
Filed Date: 3/28/13.
Accession Number: 20130328–5115.
Comments Due: 5 p.m. ET 4/18/13.

Docket Numbers: ER13–1174–000.
Applicants: Southern California Edison Company.
Description: 2013 TACBAA Update to be effective 6/1/2013.
Filed Date: 3/28/13.
Accession Number: 20130328–5138.
Comments Due: 5 p.m. ET 4/18/13.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA09–16–004.
Applicants: Northeast Utilities Service Company.
Description: Northeast Utilities Service Company submits 2012 Annual Refund Report—Order 890 Requirement.
Filed Date: 3/28/13.
Accession Number: 20130328–5091.
Comments Due: 5 p.m. ET 4/18/13.

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.

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Dated: March 28, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–08061 Filed 4–5–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1192–000]

Hess Energy Marketing, 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 Hess Energy Marketing, 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 22, 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: April 2, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–08065 Filed 4–5–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14484–000]

Archon Energy 1, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 25, 2013, the Archon Energy 1, Inc., filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Kaweah River Drop 1 Hydroelectric Project (Kaweah River Drop 1 or project) to be located on Kaweah River, near the city of Woodlake, Tulare County, California. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project has two installation option alternatives; an in-stream method and a short diversion method. The in-stream option would consist of the following: (1) A gated water intake canal; (2) a 70-foot by 55-foot by 35-foot turbine structure enclosing two in-stream VLH turbine generators operating at 500 kilowatts kW; and (3) appurtenant facilities. The short diversion method would consist of the following: (1) a gated water intake canal; (2) a concrete trough diversion channel approximately 30 feet wide and 150 feet in length; (3) a 70-foot by 55-foot by 35-foot turbine structure enclosing four screw turbine generators operating at 250 kW; and (4) appurtenant facilities. The proposed project would have a total installed capacity of 1 megawatt and generate an estimated average annual energy production of 5,000 megawatt-hours by diverting existing stream flow into the diversion canal.

Applicant Contact: Mr. Paul Grist, Archon Energy 1, Inc., 101 E. Kennedy Blvd., Suite 2800, Tampa, Florida 33602, phone: (403) 618–2018.

FERC Contact: Corey Vezina; phone: (202) 502–8598, email: *Corey.vezina@ferc.gov.*

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and five copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14484) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: April 2, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–08066 Filed 4–5–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14495–000]

Archon Energy 1, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 28, 2013, the Archon Energy 1, Inc., filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Laguna Dam Hydroelectric Project (Laguna Dam Project or project) to be located on the Colorado River, in Imperial County, California, near the city of Yuma, Yuma County, Arizona. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license

application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project has two installation option alternatives; an in-stream method and a short diversion method. The in-stream option would consist of the following: (1) A gated water intake canal; (2) a 330-foot-long diversion canal; (3) a 30-foot-wide concrete diversion approximately 1,300 feet in length; (4) a 50-by-40-foot powerhouse and turbine structure enclosing one Kaplan turbine and generator; and (5) appurtenant facilities. The proposed project would have a total installed capacity of 2.2 megawatt and generate an estimated average annual energy production of 9,850 megawatt-hours by diverting existing stream flow into the diversion canal.

Applicant Contact: Mr. Paul Grist, Archon Energy 1, Inc., 101 E. Kennedy Blvd., Suite 2800, Tampa, Florida 33602, phone: (403) 618–2018.

FERC Contact: Corey Vezina; phone: (202) 502–8598, email: *Corey.vezina@ferc.gov.*

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and five copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14495) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: April 2, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–08063 Filed 4–5–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP13–109–000]

Southern Natural Gas Company, L.L.C.; Notice of Request Under Blanket Authorization

Take notice that on March 25, 2013 Southern Natural Gas Company, L.L.C. (Southern), 569 Brookwood Village, Suite 749, Birmingham, Alabama 35209, filed in the above Docket, a prior notice request pursuant to sections 157.205 and 157.216 of the Commission's regulations under the Natural Gas Act (NGA) and Southern's authorization in Docket No. CP82–406–000, for authorization to make certain modifications at its DeArmanville Compressor Station in order to increase firm transportation capacity on its North Main Pipeline System, and to make similar modifications at its Auburn Compressor Station and Selma Compressor Station in order to increase firm transportation capacity on its South Main Pipeline System, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Pamela R. Donaldson, Sr. Regulatory Analyst II, P.O. Box 2563, Birmingham, Alabama 35202, at (205) 325–3739.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link.

Dated: April 2, 2013 .

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–08064 Filed 4–5–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9798–8]

Clean Water Act: Availability of List Decisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice and initial request for public input.

SUMMARY: The Clean Water Act requires that States periodically submit, and EPA approve or disapprove, lists of waters (called ''Section 303(d) lists'') for which existing technology-based pollution controls are not stringent enough to attain or maintain State water quality standards and for which total maximum daily loads (TMDLs) must be prepared. Waters identified on Section 303(d) lists are called ''water quality limited segments.'' This notice announces EPA's proposal to include in West Virginia's Section 303(d) list certain water quality limited segments and requests public comment.

On March 25, 2012 EPA partially approved West Virginia's 2012 Section 303(d) list of water quality limited segments and associated pollutants and partially disapproved West Virginia's submission to the extent that West Virginia did not identify certain water quality limited segments. EPA proposes to identify these additional water quality limited segments for inclusion on the State's 2012 section 303(d) list. The proposed water quality limited segments are identified in Enclosure 3

of the decision document available at the Web site link provided below.

EPA is providing the public the opportunity to review its decision to add these water quality limited segments to West Virginia's 2012 Section 303(d) list. EPA will consider public comments before transmitting its final listing decision to the State.

DATES: Comments must be submitted in writing to EPA on or before May 8, 2013.

ADDRESSES: Comments on the proposed decision should be sent to Bill Richardson, Water Protection Division (3WP30), U.S. Environmental Protection Agency Region 3, 1650 Arch Street, Philadelphia, PA 19103–2029 telephone (215) 814–5675, facsimile (215) 814–2318, email *Richardson.william@epa.gov. mailto:* Oral comments will not be considered. Copies of EPA's letter concerning West Virginia's list that explains the rationale for EPA's decision can be obtained at EPA Region 3's Web site at *http://www.epa.gov/reg3wapd/tmdl/303list.html* or by writing Mr. Richardson at the above address. Underlying documents from the administrative record for these decisions are available for public inspection at the above address. Please contact Mr. Richardson to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Bill Richardson at (215) 814–5675.

SUPPLEMENTARY INFORMATION: Section 303(d) of the Clean Water Act requires that each State identify those waters (called ''water quality limited segments'') for which existing technology-based pollution controls are not stringent enough to attain or maintain State water quality standards. For those waters, States are required to establish TMDLs according to a priority ranking.

EPA's Water Quality Planning and Management regulations include requirements related to the implementation of Section 303(d) of the CWA (*40 CFR 130.7*). The regulations require States to assemble and evaluate existing and readily available water quality data and to identify water quality limited waters still requiring TMDLs every two years. The lists of waters still needing TMDLs must also include priority rankings and must identify the waters targeted for TMDL development during the next two years (*40 CFR 130.7*).

Consistent with EPA's regulations, EPA received West Virginia's submittal of its listing decisions under Section 303(d)(2) on December 21, 2012. On March 25, 2013, EPA partially approved West Virginia's 2012 listings of waters and associated priority rankings and partially disapproved West Virginia's submission to the extent that West Virginia did not list 255 water quality limited segments. EPA solicits public comment on the addition of these waters to the State's list, as required by *40 CFR 130.7*(d)(2).

Dated: March 28, 2013.

Jon M. Capacasa,

Water Protection Division, U.S. Environmental Protection Agency, Region III.

[FR Doc. 2013–08119 Filed 4–5–13; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice 2013–0024]

Application for Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of $100 million: AP087801XX

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: This Notice is to inform the public, in accordance with Section 3(c)(10) of the Charter of the Export-Import Bank of the United States (''Ex-Im Bank''), that Ex-Im Bank has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million (as calculated in accordance with Section 3(c)(10) of the Charter). Comments received within the comment period specified below will be presented to the Ex-Im Bank Board of Directors prior to final action on this Transaction.

Reference: AP087801XX.

Purpose and Use:

Brief description of the purpose of the transaction:

To support the export of U.S. manufactured commercial aircraft to China.

Brief non-proprietary description of the anticipated use of the items being exported:

To provide short-and medium haul airline service in China and between China and other regional destinations and to provide long-haul airline service between China and various international destinations.

To the extent that Ex-Im Bank is reasonably aware, the item(s) being exported may be used to produce exports or provide services in competition with the exportation of goods or provision of services by a United States industry.

Parties:

Principal Supplier: The Boeing Company

Obligor: Air China

Guarantor(s): N/A

Description of Items Being Exported:

Boeing 777 aircraft and Boeing 737 aircraft

Information on Decision: Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://exim.gov/newsandevents/boardmeetings/board/.*

Confidential Information: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

DATES: Comments must be received on or before May 3, 2013 to be assured of consideration before final consideration of the transaction by the Board of Directors of Ex-Im Bank.

ADDRESSES: Comments may be submitted through Regulations.gov at *WWW.REGULATIONS.GOV.* To submit a comment, enter EIB–2013–0024 under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and EIB–2013–0024 on any attached document.

Sharon A. Whitt,

Records Clearance Officer.

[FR Doc. 2013–08016 Filed 4–5–13; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection(s) Being Submitted for Review and Approval to the Office of Management and Budget (OMB)

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3502–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: Whether the proposed collection of

information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimates; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before May 8, 2013. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Judith B. Herman, Federal Communications Commission, via the Internet at *Judith-b.herman@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, FCC, at 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0775.

Title: Section 64.1903 Obligations of All Incumbent Local Exchange Carriers.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 510 respondents; 510 responses.

Estimated Time per Response: 500 hours to 6,056 hours.

Frequency of Response: Recordkeeping requirements.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. sections 151, 152, 154, 201, 202, 251, 271, 272, and 303(r) of the Communications Act of 1934, as amended.

Total Annual Burden: 310,560 hours.

Total Annual Cost: $15,217,440.

Privacy Impact Assessment: N/A

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this collection to the OMB for approval of an extension in order to obtain the three year clearance from them. There is no change in the recordkeeping requirement. There is no change in the Commission's previous burden estimates. The Commission imposed recordkeeping requirements on independent local exchange carriers (LECs). Independent incumbent LECs wishing to offer international, interexchange services must comply with the requirements of the Competitive Carrier Fifth Report and Order, CC Docket Nos. 96–149 and 96–61. One of the requirements is that the independent incumbent LEC's international, interexchange affiliate (for facilities-based providers of international, interexchange services) must maintain books of account separate from such LEC's local exchange and other activities. See 47 CFR 64.1903 for the specific recordkeeping requirements.

This recordkeeping requirement is used by the Commission to ensure that independent incumbent LECs that provide international, interexchange services do so in compliance with the Communications Act, as amended, and with Commission policies and regulations.

OMB Control Number: 3060–1044.

Title: Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01–338 and WC Docket No. 04–313, Order on Remand.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions and state, local or tribal government.

Number of Respondents: 645 respondents; 645 responses.

Estimated Time per Response: 8 hours.

Frequency of Response: Recordkeeping requirement, third party disclosure requirement and on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. section 251 of the Communications Act of 1934, as amended.

Total Annual Burden: 5,160 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit or disclose confidential information. However, in certain circumstances, respondents may voluntarily choose to submit confidential information pursuant to applicable confidentiality rules.

Needs and Uses: In the Order on Remand, the Commission imposes unbundling obligations in a more targeted manner where requesting carriers have undertaken their own facilities-based investments and will be using UNEs (unbundled network elements) in conjunction with self-provisioned facilities. The Commission also eliminated the subdelegated of authority to state commissions adopted in the previous order.

Prior to the issuance of the Order, the Commission sought comment on issues relating to combinations of UNEs, called ''enhanced extended links'' (EELs), in order to effectively tailor access to EELs to those carriers seeking to provide significant local usage to end users. In the Order, the Commission adopted three specific service eligibility criteria for access to EELs, which are important to assure that requesting carriers may not obtain EELs if they do not provide services to UNEs under the Commission's rules.

OMB Control Number: 3060–1096.

Title: Prepaid Calling Card Service Provider Certification, WC Docket No. 05–68.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 121 respondents; 1,452 responses.

Estimated Time per Response: 2.5 hours to 20 hours.

Frequency of Response: Quarterly reporting requirement, third party disclosure requirement and recordkeeping requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. sections 151, 152, 154(i), 201, 202 and 254 of the Communications Act of 1934, as amended.

Total Annual Burden: 12,100 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission does not anticipate providing confidentiality of the information submitted by prepaid calling card providers. Particularly, the prepaid calling card providers must

send reports to their transport providers. Additionally, the quarterly certifications sent to the Commission will be made public through the Commission's Electronic Comment Filing System (ECFS) process. These certifications will be filed in the Commission's docket associated with this proceeding. If the respondents submit information they believe to be confidential, they may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this expiring information collection during this comment period to obtain the three year clearance from the Office of Management and Budget (OMB). The Commission is requesting approval for an extension (no change in the reporting, recordkeeping and/or third party disclosure requirements. The Commission is reporting a 3,700 burden reduction adjustment which is due to fewer respondents. This is due in part to consolidation in the telecommunications market and/or providers exiting the telecommunications market.

Prepaid calling card service providers must report quarterly the percentage of interstate, intrastate and international access charges to carriers from which they purchase transport services. Prepaid calling card providers must also file certifications with the Commission quarterly that include the above information and a statement that they are contributing to the federal Universal Service Fund based on all interstate and international revenue, except for revenue from the sale of prepaid calling cards by, to, or pursuant to contract with the Department of Defense (DoD) or a DoD entity.

OMB Control Number: 3060–0537.

Title: Sections 13.9(c), 13.13(c), 13.17(b), 13.211(e) and 13.217, Commercial Operator License Examination Managers (COLEM) Records.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 9 respondents; 9 responses.

Estimated Time per Response: .44 hours to 30 hours.

Frequency of Response: On occasion and semi-annual reporting requirements and recordkeeping requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 154 and 303 of the Communications Act of 1934, as amended.

Total Annual Burden: 14,796 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this expiring information collection during this comment period to obtain the full, three year clearance from the Office of Management and Budget (OMB). The Commission is requesting OMB approval for a revision of this information collection. There are changes to the Commission's previous burden estimates. The total annual burden has increased (program change increase) by 14,787 hours from 9 hours. This is due to revision of the Commission's rules in *Report and Order,* FCC 13–4 which added rule sections 13.9, 13.13, 13.17 and 13.211 to this collection.

On January 8, 2013, the Federal Communications Commission (FCC), in an effort to clarify, streamline or eliminate its rules in order to reduce administrative burdens in the telecommunications industry. The FCC adopted a *Report and Order,* FCC 13–4, amending its rules concerning Commercial Radio Operator licensees for maritime and aviation radio stations. Of those rules adopted, some have recordkeeping and/or reporting requirements for holders of commercial radio licenses, as well as for Commercial Operator License Examination Managers (COLEM(s)) that administer commercial radio operator license examinations across the United States. In this proceeding, the Commission seeks OMB approval for the burdens contained in the *R&O,* which implements a number of actions the FCC has taken.

Each COLEM recovering fees from examinees must maintain records of expenses and revenues, frequency of examinations administered, and examination pass rates. Records must cover from January 1 to December 31 of the preceding year and must be submitted as directed by the FCC. Each COLEM must retain records for one year and the records must be made available to the FCC upon request.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2013–08021 Filed 4–5–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before June 7, 2013. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Judith B.Herman, Federal Communications Commission, via the Internet at *Judith-b.herman@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0957.

Title: Section 20.18(i) and (g), Requests for Waiver of Deadline on Location-Capable Handset Deployment, Fourth Memorandum Opinion and Order in CC Docket No. 94–102.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions and state, local or tribal government.

Number of Respondents: 50 respondents; 50 responses.

Estimated Time per Response: 3 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. section 154, 160, 251–254, 303 and 332 of the Communications Act of 1934, as amended.

*Total Annual Bu*rden: 150 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: No questions of a confidential nature are asked.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) for approval of an extension request (no change in the public reporting requirement). The Commission is reporting a 7,350 hour reduction in burden which is due to fewer respondents and responses.

The Commission's Fourth Memorandum Opinion and Order (MO&O) in FCC 00–326, CC Docket No. 94–102, sets forth guidelines for filing successful requests for waiver of E911 Phase II rules. Wireless carriers are instructed to submit waiver requests that are specific, focused and limited in scope, and with a clear path to compliance. A waiver request must specify the solutions considered and explain why none could be employed in a way that complies with the Phase II rules. If deployment must be delayed, the carrier should specify the reason for the delay and provide a revised schedule.

The information submitted by petitioners is used to ensure that carriers comply with critical Phase II requirements in an orderly, timely and comprehensive fashion with no unnecessary delay.

OMB Control Number: 3060–0998.

Title: Section 87.109, Station Logs.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 5 respondents; 5 responses.

Estimated Time per Response: 100 hours.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 154, 303 and 307(e) of the Communications Act of 1934, as amended.

Total Annual Burden: 500 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) for approval of an extension request (no change in the recordkeeping requirement).

Section 87.109 of the Commission's rules require that a station at a fixed location in the international aeronautical mobile service (IAMS) must maintain a log (written or automatic log) in accordance with the Annex 10 provisions of the International Civil Aviation Organization (ICAO) Convention. This log is necessary to document the quality of service provided by fixed stations, including the harmful interference, equipment failure, and logging of distress and safety calls where applicable. This information is used by the Commission to ensure that particular stations are licensed and operated in compliance with applicable rules, statutes, and treaties.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2013–08022 Filed 4–5–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before June 7, 2013. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Judith B. Herman, Federal Communications Commission, via the Internet at *Judith-b.herman@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–XXXX.

Title: Sections 1.1307(b)(1), 20.3, 20.21(a)(2), 20.21(a)(5), 20.21(e)(2), 20.21(e)(8)(i)(G), 20.21(e)(9)(i)(H), 20.21(f), 20.21(h), 90.203, 90.219(b)(1)(i), 90.219(d)(5) and 90.219(e)(5)—Signal Boosters.

Form Number: N/A.

Type of Review: New collection.

Respondents: Individuals or households, business or other for-profit entities, not-for-profit institutions, Federal Government, farms, and state, local or tribal government.

Number of Respondents: 634,595 respondents; 634,595 responses.

Estimated Time per Response: 5 minutes up to 5 hours.

Frequency of Response: On occasion, annual and every 10 reporting requirements, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154(i), 303(g), 303(r) and 332(a).

Total Annual Burden: 4,167 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: Yes. The Commission has a system of records for this information collection, FCC/WTB–1, ''Wireless Services Licensing Records'', which covers the personally identifiable information (PII) that individual applicants may include in their submissions for licenses or grants of equipment authorization.

At such time as the Commission revises this System of Records Notice (SORN), the Commission will conduct a Privacy Act Impact Assessment (PIA) and publish the revised SORN in the **Federal Register**. In addition, the Commission will post a copy of both the PIA and the SORN on the FCC's Privacy Web page.

Nature and Extent of Confidentiality: There is a need for confidentiality with respect to filers who are individuals in this collection. Pursuant to section 208(b) of the E-Government Act of 2002, 44 U.S.C. 3501, in conformance with the Privacy Act of 1974, 5 U.S.C. 552(a), the Commission's Wireless Telecommunications Bureau instructs licensees to use the FCC's Universal Licensing System (ULS), Antenna Structure Registration (ASR), Commission Registration System (CORES) and related systems and subsystems to submit information.

Needs and Uses: The Commission will submit this information collection after this comment period to obtain the full, three year clearance from the Office of Management and Budget (OMB). The Commission is requesting approval for this new information collection.

The Commission adopted a Report and Order (R&O) in FCC 13–21, which implements new technical, operational and registration requirements for signal boosters. The new rules create two classes of signal boosters—consumer and industrial—with distinct regulatory requirements.

Consumer Signal Boosters are designed to be used ''out of the box'' by individuals to improve their wireless coverage within a limited areas such as a home, car, boat, or recreational vehicle. Consumer Signal Boosters will be authorized under provider licenses subject to certain requirements. Specifically, subscribers must obtain some form of licensee consent to operate the booster; register the booster with their provider; use a booster that meets the Network Protection Standard and is FCC certificated; and operate the booster on a secondary, non-interference basis and shut it down if it causes harmful interference. Consumers may continue to use existing signal boosters provided they (1) have the consent of their provider; and (2) register the booster with that provider. The Commission will conduct consumer outreach to educate consumers, public safety entities, small businesses, and others about our new regulatory framework.

Industrial Signal Boosters include a wide variety of devices that are designed for installation by licensees or qualified installers. These devices are typically designed to serve multiple users simultaneously and cover large areas such as stadiums, airports, office buildings, hospitals, tunnels and educational campuses. Industrial Signal Boosters require a FCC license or express licensee consent to operate, and must be appropriately labeled. The Report and Order also revises technical and operational requirements for duly licensed Part 90 Private Land Mobile Radio (PLMR), non-consumer signal boosters, and adopts a registration requirement for Part 90 Class B signal boosters.

The Commission established a two-step transition process for equipment certification for both Consumer and Industrial Signal Boosters sold and marketed in the United States. First, as of the release date of the R&O, the Commission stopped accepting applications for equipment certifications of Consumer and Industrial Signal Boosters that do not comply with the new rules and ceased certification of devices that do not comply with the new rules. Second, on or after March 1, 2014, all Consumer and Industrial Signal Boosters sold and marketed in the United States must meet the new requirements.

OMB Control Number: 3060–XXXX.

Title: Section 87.287, Aeronautical Advisory Stations (Unicoms).

Form Number: N/A.

Type of Review: New collection.

Respondents: Individuals or households, business or other for-profit entities, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 200 respondents; 200 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 303(r) and 309.

Total Annual Burden: 200 hours.

Total Annual Cost: $28,750.

Privacy Impact Assessment: Yes. The Commission has a system of records for this information collection, FCC/WTB–1, ''Wireless Services Licensing Records'', which covers the personally identifiable information (PII) that individual applicants may include in their submissions for licenses or grants of equipment authorization. At such time as the Commission revises this System of Records Notice (SORN), the Commission will conduct a Privacy Act Impact Assessment (PIA) and publish the revised SORN in the **Federal Register**. In addition, the Commission will post a copy of both the PIA and the SORN on the FCC's Privacy Web page.

Nature and Extent of Confidentiality: There is a need for confidentiality with respect to filers who are individuals in this collection. Pursuant to section 208(b) of the E-Government Act of 2002, 44 U.S.C. 3501, in conformance with the Privacy Act of 1974, 5 U.S.C. 552(a), the Commission's Wireless Telecommunications Bureau instructs licensees to use the FCC's Universal Licensing System (ULS), Antenna Structure Registration (ASR), Commission Registration System (CORES) and related systems and subsystems to submit information.

Needs and Uses: The Commission will submit this information collection after this comment period to obtain the full, three year clearance from the Office of Management and Budget (OMB). The Commission is requesting OMB approval for a new collection.

On March 1 2013, the Commission released a Report and Order, FCC 13–30, which amended its Part 87 rules to authorize new ground station technologies that will promote aviation safety, and allow use of frequency 1090 MHz by aeronautical utility mobile stations for airport surface detection equipment, commonly referred to as vehicle ''squitters'', to help reduce collisions between aircraft and airport ground vehicles. ''Squitter'' refers to random output pulses from a transponder caused by ambient noise or by an intentional random triggering system, but not by the interrogation pulses. Further, the Commission establishes service rules for audio visual warning systems to help aircraft in flight

avoid antenna structures and other obstacles, and adopts rules to permit ground testing of aviation data link test systems. However, in this R&O, the Commission declined to authorize remote monitoring of certain automated ground stations.

Section 87.287(b) requires that before submitting an application for an aircraft data link land test station, an applicant must obtain written permission from the licensee of the aeronautical enroute stations serving the areas in which the aircraft data link land test station will operate on a co-channel basis. The Commission may request an applicant to provide documentation as to this fact.

The written permission will aid the Commission in ensuring that licensees are complying with its policies and rules, while allowing the owners of antenna structures and other aviation obstacles to use Audio Visual Warning Systems (AVWS) stations, thereby helping aircraft avoid potential collisions and enhancing aviation safety, without causing harmful interference to other communications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2013–08019 Filed 4–5–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 13–577]

Consumer Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Commission announces rechartering, appointment of members and designation of chairperson of its Consumer Advisory Committee (Committee). The Commission further announces the Committee's next meeting date, time, and agenda. The purpose of the Committee is to make recommendations to the Commission regarding matters within the jurisdiction of the Commission and to facilitate the participation of all consumers in proceedings before the Commission.

DATES: The meeting of the Committee will take place on April 26, 2013, 9:00 a.m. to 4:00 p.m., at the Commission's Headquarters Building, Commission Meeting Room TW–C305.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Scott Marshall, Consumer and Governmental Affairs Bureau, (202) 418–2809 (voice or Relay), or email *Scott.Marshall@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document DA 13–577 released April 1, 2013, announcing the rechartering of the Committee, appointment of members, appointment of chairperson, and the agenda, date and time of the Committee's next meeting.

The Committee's charter was renewed for a seventh 2-year term effective October 23, 2012.

During the Committee's seventh term, it is anticipated that the Committee will meet in Washington, DC for a minimum of two (2) one-day plenary meetings per year. In addition, as needed, working groups or subcommittees will be established to facilitate the Committee's work between meetings of the full Committee. Members must be willing to commit to a two (2) year term of service, should be willing and able to attend a minimum of two (2) one-day plenary committee meetings per year in Washington, DC. Committee members are also expected to participate in deliberations of at least one (1) working group or subcommittee.

Appointment of Members and Chairperson

By document DA 13–577 dated and released on April 1, 2013, the Commission re-appoints thirty (30) previous members to the rechartered Committee and further makes three (3) new appointments to the Committee. Of the Committee's thirty-three (33) members, two (2) represent the interests of academia; eleven (11) represent the interests of consumers; six (6) represent the interests of the disability community; two (2) represent the interests of government/regulators; ten (10) represent the interests of industry, and two (2) represent the interests of low income/minority communities. The Committee's membership is designed to be representative of the Commission's many constituencies, and the diversity of the selected members will provide a balanced point of view as required by the Federal Advisory Committee Act. In addition, Chairman Genachowski reappoints Debra R. Berlyn representing the National Consumers League as Chairperson of the Committee. All appointments and reappointments are effective immediately and shall terminate October 23, 2014, or when the Committee is terminated, whichever is earlier.

Ms. Debra Berlyn, representing the National Consumers League, is re-appointed chairperson of the Committee.

The Committee's roster by organization name and primary representative is as follows (* indicates new appointment):

AARP—Chris Baker
American Consumer Institute—Stephen Pociask
American Foundation for the Blind—Paul Schroeder
Appalachian Regional Commission—Mark Defalco
Benton Foundation—Cecilia Garcia
California Western School of Law, New Media Rights Project—Art Neill
Call For Action—Shirley Rooker
Coleman Institute for Cognitive Disabilities—Enid Ablowitz
Consumer Action—Ken McEldowney
Consumer Federation of America—Irene E. Leech
Consumer Electronics Association—Julie Kearney
Center for Media Justice—Amalia Deloney
CTIA The Wireless Association—Scott Bergmann
Deaf and Hard of Hearing Consumer Action Network—Claude Stout
Digital Policy Institute—Barry Umansky
*Health Analytic Services—Douglas Trauner
Hearing Loss Association of America—Lise Hamlin
Helen Keller National Center for Deaf-Blind Youth and Adults—Dorothy Walt
Media Literacy Project—Andrea Quijada
Montgomery County, MD, Office of Cable and Broadband Services—Mitsuko Herrera
National Asian American Coalition—Mia Martinez
National Association of Broadcasters—Ann Bobeck
National Association of State Utility Consumer Advocates—Charles Acquard
National Cable and Telecommunications Association—Stephanie Podey
National Consumer Law Center—Olivia Wein
National Consumers League—Debra Berlyn (Committee Chairperson)
*Partners Healthcare—Dr. Julian Goldman
*Qualcomm Incorporated—Robert Jarrin
Rochester Institute of Technology—Raja Kushalnagar
Speech Communication Assistance by Telephone—Rebecca Ladew
Time Warner Cable—Fernando R. Laguarda
T-Mobile—Luisa Lancetti
Verizon Communications, Inc.—Donna Rynex and Mary Crespy (joint representatives)

Meeting Agenda

At its April 26, 2013 meeting, the Committee will consider administrative and procedural matters relating to its functions and may also consider consumer issues with in the jurisdiction of the Commission. A limited amount of time will be available on the agenda for comments from the public. Alternatively, Members of the public may send written comments to: Scott Marshall, Designated Federal Officer of the Committee at the address provided above.

The meeting is open to the public and the site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, assistive listening devices, and Braille copies of the agenda and handouts will be provided on site.

Meetings are also broadcast live with open captioning over the Internet from the FCC Live Web page at *www.fcc.gov/live/.*

Simultaneous with the webcast, the meeting will be available through Accessible Event, a service that works with your web browser to make presentations accessible to people with disabilities. You can listen to the audio and use a screen reader to read displayed documents. You can also watch the video with open captioning. The Web site to access Accessible Event is *http://accessibleevent.com.* The Web page prompts for an Event Code which is 005202376. To learn about the features of Accessible Event, consult its User's Guide at: *http://accessibleevent.com/doc/user_guide/.* Other reasonable accommodations for people with disabilities are available upon request. The request should include a detailed description of the accommodation needed and contact information.

Please provide as much advance notice as possible; last minute requests will be accepted, but may be impossible to fill. Send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Federal Communications Commission.

Kris Anne Monteith,

Acting Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. 2013–08018 Filed 4–5–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

DATE & TIME: *Thursday, April 11, 2013 at 10:00 a.m.*

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of the Minutes for the Meeting of March 7, 2013

Audit Division Recommendation Memorandum on the California Republican Party/V8 (CRP) (A09–15)

Management and Administrative Matters

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Shawn Woodhead Werth, Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting date.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Signed:

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2013–08277 Filed 4–4–13; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 23, 2013.

A. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. *Julie Rose Akemon, individually, and the Julie Rose Akemon Control Group consisting of Julie Rose Akemon; Kemberly Clemons; Earl D. Clemons; David Clemons: The Jade Clemons Trust, Julie Rose Akemon, Trustee; the Rose Clemons Trust, Julie Rose Akemon, Trustee, all of Hazard, Kentucky; Eva Dmitrieva, Vienna, Austria; the Eva Dmitrieva Trust, Earl D. Clemons, Trustee; and Leon L. Hollon, both of Hazard, Kentucky, individually and as co-executor of the Estate of Edward L. Clemons;* to acquire voting shares of Hazard Bancorp, and thereby indirectly acquire voting shares of the Peoples Bank and Trust Company, both in Hazard, Kentucky.

In addition, notificants also have applied to acquire voting shares of John R. Turner Holding Company, and thereby indirectly acquire voting shares of the Citizens Bank and Trust, both in Jackson, Kentucky, and Farmers Deposit Bank, Middleburg, Kentucky.

B. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *The Elizabeth Ann Soderberg Irrevocable Trust,* New Richmond, Wisconsin, Scott H. Soderberg, Eden Prairie, Minnesota, individually and as trustee, the Scott H. Soderberg Irrevocable Trust, New Richmond, Wisconsin, and Elizabeth Ann Soderberg, Minnetonka, Minnesota, individually and as trustee, to join the Soderberg family group and acquire voting shares of One Corporation, and thereby indirectly acquire voting shares of First National Community Bank, both in New Richmond, Wisconsin.

Board of Governors of the Federal Reserve System, April 3, 2013.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2013–08078 Filed 4–5–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate

inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 3, 2013.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *Bond Street Management, LLC, Bond Street Investors, LLC, and Bond Street Holdings Inc.,* all in Weston, Florida; to acquire 100 percent of the voting shares of Atlantic Coast Bank, N.A., Waycross, Georgia, upon its conversion from a federal savings bank to a national bank.

In connection with this application, Applicants also have applied to acquire Atlantic Coast Financial Corporation, and indirectly acquire Atlantic Coast Bank, FSB, both in Jacksonville, Florida, and thereby engage in operating a savings association, pursuant to section 225.28(b)(4)(ii).

B. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Renasant Corporation,* Tupelo, Mississippi, to merge with First M & F Corporation, and thereby indirectly acquire Merchants & Farmers Bank, both in Kosciusko, Mississippi.

Board of Governors of the Federal Reserve System, April 3, 2013.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2013–08079 Filed 4–5–13; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–13–0040]

Agency Forms Undergoing Paperwork Reduction Act Review

The Agency for Toxic Substances and Disease Registry (ATSDR) 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

Generic Clearance of ATSDR Exposure Investigations (EI) [OMB Control No: 0923–0040, Expiration Date 11/30/2012]—Reinstatement with Change—Agency for Toxic Substances and Disease Registry (ATSDR).

Background and Brief Description

The Agency for Toxic Substances and Disease Registry (ATSDR) requests a change to a three-year ''generic clearance''. The title has changed since publication of the 60-day **Federal Register** Notice to read—*Generic Clearance of ATSDR Exposure Investigations (EI).* The goals remain the same but ATSDR believes the change will allow the Agency to carry out its public health activities in a more timely and efficient manner. The benefits to using the EI Generic Clearance include submission of a standardized OMB review package for each EI Generic Information Collection (GenIC).

The ATSDR Division of Community Health and Investigation (DCHI) conducts public health assessments (PHAs) at sites when requested by the U.S. EPA, states, organizations, or individual petitioners. The purpose of the agency's PHA process is to find out whether people have been, are being, or may be exposed to hazardous substances and, if so whether that exposure is harmful, or potentially harmful, and should therefore be stopped or reduced. The process also serves as a mechanism through which the agency responds to specific community health concerns related to hazardous waste sites.

Exposure assessment is the hallmark of the PHA process. ATSDR scientists review environmental data to see how much contamination is at a site, where it is, and how people might come into contact with it. Generally, ATSDR does not collect its own environmental sampling data but reviews information provided by federal and state government agencies and/or their contractors, potentially responsible parties, and the public. When adequate environmental or exposure information does not exist to assess human exposures and possible related health effects, ATSDR will indicate what further environmental sampling may be needed and may collect environmental and biological samples, when appropriate.

Therefore, as part of the PHA process, the DCHI Science Support Branch (SSB) uses EIs to fill data gaps that are essential for evaluating whether communities are exposed to contaminants and whether a health hazard is present. The EI team conducts point of human-contact sampling focused on geographic areas where exposures are expected to be high. EIs may include environmental (ambient air, personal air, indoor air, dust, soil, sediment, biota, ground water, tap water and surface water sampling) or biological sampling (blood and urine sampling), or both. Most EIs sampling events are completed over a period of days to months and are a one-time occurrence.

An EI aims to identify the most highly exposed individuals and measure their exposure. The results of the investigation are site-specific and apply only to the participants from the site. An EI is not considered a health study. The participants' results are not intended to be generalized to other populations and other communities. No participants from external comparison groups are included in the data collection. As a public service, EIs provide individual exposure information back to the participants. EIs are also used as the basis to implement appropriate public health actions that reduce exposure to communities.

Information obtained from the participants assists the team in determining if exposure has occurred or is occurring. For each EI, a data collection system will include all of the measurements and procedures that are proposed to address data gaps in biological and environmental sampling.

ATSDR collects contact information (e.g., name, address, phone number) to provide the participant with their individual results. General information, which includes height, weight, age, race, gender, etc., is also collected primarily in biological investigations to assist with results interpretation. Some of this information is investigation-specific; not all of these data are collected for every investigation.

ATSDR also collects information on other possible confounding sources of chemical(s) exposure such as medicines taken, food eaten, hobbies, jobs, etc. In addition, ATSDR asks questions on recreational or occupational activities that could increase a participant's

exposure potential. That information represents an individual's exposure history. With these data, we can assess the presence or absence of a specific exposure and estimate how long and how frequently people have had contact with the chemical(s) of interest. The responses also provide data about exposure to other sources of the chemical(s).

Participation in an EI is completely voluntary and requires participants' written consent. To assist in interpreting the sampling results, a survey questionnaire appropriate to the specific contaminant is administered to participants. Information is generally gathered in a face-to-face interview with potentially exposed participants, but could occasionally be administered by phone or mail. All information is usually collected and recorded electronically and, on occasion, hard copy forms will be used.

ATSDR uses approximately 12–20 questions about environmental exposures per investigation. This number can vary depending on the number of chemicals being investigated the route of exposure (e.g., breathing, eating, touching), and number of other sources of the chemical(s) (e.g., products used, jobs).

Typically, the number of participants in an individual EI ranges from 10 to 100. Questionnaires are generally needed in less than half of the EIs (approximately than 12 per year).

The DCHI SSB EI team and the ATSDR staff and partners in the DCHI cooperative agreement program will use the EI Generic Clearance for OMB submittals for each EI. EIs are usually nonresearch investigations, but occasionally may be classified as research. The DCHI cooperative agreement operates across ten ATSDR regions across the nation. In 2012, ATSDR was functionally reorganized and DCHI was divided into three functional units that administer its ten regions and its cooperative agreement program: Eastern Branch, Central Branch and Western Branch. The DCHI SSB supports all three DCHI branches. It is uncertain at this time how many EIs across the states, regions, and branches will require an expedited approval at the same time.

EI participants will likely include community members that are concerned about being exposed to environmental contamination. Investigations tend to focus on the most highly exposed at the site, such as those living in proximity to the site. On occasion, small businesses may be included as EI participants.

The estimated annual burden hours are 600, which is an increase from the previously approved burden hours of 375 hours. The increase is due to the addition of EIs conducted by cooperative agreement states requiring a survey each year. There are no costs to the respondents other than their time.

EIs are performed under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), commonly known as the ''Superfund'' Act, as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Exposure Investigation Participants	Chemical Exposure Questions	1,200	1	30/60

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. 2013–08067 Filed 4–5–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–13–13PR]

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

Evaluating the Implementation and Outcome of Policy and Environmental Cancer Control Activities—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Through the National Comprehensive Cancer Control Program (NCCCP), CDC provides cooperative agreement funding to 65 health departments in states, the District of Columbia, tribal organizations, and territories. NCCCP funding is used to design, implement, and evaluate comprehensive cancer control plans (CDC–RFA–DP12–1205). Support for these programs is a cornerstone of CDC efforts to reduce the burden of cancer throughout the nation. NCCCP awardees have consistently included policy, system and environmental (PSE) change strategies in their program plans and initiatives.

In 2010, CDC provided additional funding (CDC–RFA–DP10–1017) to 13 NCCCP awardees to increase their focus on PSE change strategies. The 13 funded pilot programs include: Cherokee Nation, Colorado, Florida, Indiana, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, New York, Oregon, Utah, and Wisconsin. The goal of the pilot is to examine what a modest

investment can yield, building on the successes that NCCCP awardees have already experienced. Pilot program funding aims to increase each awardee's capacity to implement PSE change initiatives, to effectively implement policies that address local priorities, and to increase collaboration with both traditional and nontraditional partners.

CDC plans to collect the information needed to describe the implementation and outcomes of the pilot program, and to compare the experiences of pilot program awardees with the experiences NCCCP awardees that did not receive pilot program funding. Information collection will include a web-based survey of all NCCCP program directors, a longitudinal case study of selected pilot program awardees, a survey of pilot program coalition members, and focus groups with individuals who have provided technical assistance (TA) to pilot program awardees.

The self-administered NCCCP program director survey will be completed at two points in time approximately 18–24 months apart. The survey will include questions that address capacity for PSE change, technical assistance and training, and descriptive information about two PSE change initiatives being undertaken. The estimated burden per response is 30 minutes.

The longitudinal, multiple-site case study will be conducted with six awardees that received pilot program funding. In selecting case study sites, CDC will consider features that are expected to influence PSE change processes and outcomes, such as: the structure of the awardee's public health system, the state/local policy climate, the awardee's capacity for PSE change, the focus areas that awardees have chosen to address in their work plans, and the demographics and population characteristics of the awardee's jurisdiction. One individual at each site will be asked to assist in coordinating a site visit.

During initial site visits to the six selected pilot programs, interviews will be conducted with key informants including NCCCP staff, partners who are members of the awardee's policy task force, and community members who play an important role in implementing PSE change initiatives. Approximately three NCCCP staff members and 12 partners/community members per site will be asked to participate. The estimated burden per response is 90 minutes for NCCCP staff and 60 minutes for partners/community members. Interview data will be supplemented with documentary evidence and program monitoring data already collected by local program staff and by CDC. Approximately two years after the site visit, a second round of interviews will be conducted by telephone. The respondents for the telephone interviews may be the same individuals who were interviewed during the initial site visits, or other key informants.

CDC also plans to conduct an annual focus group involving CDC staff and national partners who have provided technical assistance and training to the pilot programs. The purpose of the focus groups is to gather information about the capacity, challenges, and facilitators of PSE change from the perspective of the trainers who have had direct interaction with the awardees. Focus groups will be conducted with approximately 10 non-federal respondents per group. The estimated burden per response is 90 minutes.

Finally, CDC plans to conduct a survey of coalition members in the third year of the evaluation. The content of the survey may include questions from the program director survey as well as other issues identified during the evaluation process. CDC estimates 20 responses in each of 13 sites for a total of 260 responses. The estimated burden per response is 20 minutes.

Specific evaluation questions to be addressed in this pilot program evaluation include: (1) How the pilot program enhanced comprehensive cancer control; (2) whether the pilot program facilitated a shift towards primary prevention; (3) the program's effects on cancer control infrastructure; (4) pilot program implementation strategies; (5) key outcomes; (6) the role of the state task force; and (7) lessons learned.

The case studies will allow CDC to understand how differences in programmatic characteristics and context influence overall implementation processes and outcomes. Information to be collected may also inform the development of technical assistance and the future allocation of program resources.

OMB approval is requested for three years. Participation is voluntary and there are no costs to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hr)	Total response burden (in hr)
CCC Program Directors	Program Directors Web Survey Questionnaire.	43	1	30/60	22
CCC Staff	Key Informant Selection	2	1	8	16
	Key Informant Recruitment/Scheduling.	12	1	5/60	1
	Key Informant Interview	12	1	1.5	18
CCC Partners	Key Informant Recruitment/Scheduling.	48	1	5/60	4
	Key Informant Interview	48	1	1	48
	Coalition Survey	87	1	20/60	29
TA Providers	Focus Group Guide	10	1	1.5	15
Total					153

Dated: April 1, 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. 2013–08051 Filed 4–5–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0977]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco To Protect Children and Adolescents

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 May 8, 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 0910–0312. 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.

Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco To Protect Children and Adolescents—21 CFR Part 1140 (OMB Control Number 0910–0312)—Revision

This is a request for an extension of OMB approval of the information collection requirements contained in FDA's regulations for cigarettes and smokeless tobacco containing nicotine. The regulations that are codified at 21 CFR part 1140 (previously codified at 21 CFR part 897) are authorized by section 102 of the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Pub. L. 111–31). Section 102 of the Tobacco Control Act required FDA to publish a final rule regarding cigarettes and smokeless tobacco identical in its provisions to the regulation issued by FDA in 1996 (61 FR 44396, August 28, 1996), with certain specified exceptions—which included striking subpart C (with § 897.24) and § 897.32(c) from the reissued rule (section 102(a)(2)(B). The reissued final rule was published in the **Federal Register** on March 19, 2010 (75 FR 13225).

This collection includes reporting information requirements for § 1140.30, which directs persons to notify FDA if they intend to use a form of advertising that is not addressed in the regulations. Disclosure requirements for § 1140.32 state that the advertising must use black text on a white background, but that this particular requirement does not apply to adult newspapers, magazines, periodicals, or other publications. Recordkeeping requirements under § 1140.32 indicate that competent and reliable survey evidence is required to determine whether a particular publication is an ''adult'' publication.

The requirements are as follows:

- Reporting—§ 1140.30 directs persons to notify FDA if they intend to use a form of advertising that is not described in § 1140.30(a)(1).
- Disclosure—§ 1140.32 requires firms to use black text on white backgrounds in labeling and advertising.
- Recordkeeping—§ 1140.32 indicates that firms advertising in ''adult'' magazines or publications may need survey evidence demonstrating that the publication meets the criteria for an ''adult'' publication.

For the disclosure and recordkeeping requirements under § 1140.32, FDA has decided to use its discretionary enforcement and has placed placeholders of 1 burden hour for disclosure and 1 burden hour for reporting because FDA does not intend to enforce the requirements for this section for the next 3 years.

In the **Federal Register** of September 28, 2012 (77 FR 59622), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
1140.30 (Scope of permissible forms of labeling and advertising)	300	1	300	1	300

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
1140.32 (Format and content requirements for labeling and advertising)	1	1	1	1	1

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR Section	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
1140.32	1	1	1	1	1

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden hour estimates for this collection of information were based on industry-prepared data and information regarding pharmaceutical advertising and cigarette and smokeless tobacco product advertising expenditures. The burden collection does not include reporting burdens associated with providing established names on labels and statements of intended use because section 102 of the Tobacco Control Act required that these provisions be struck from the reissued final rule (previously included in §§ 897.24 and 897.32(c)).

Section 1140.30 requires manufacturers, distributors, and retailers to observe certain format and content requirements for labeling and advertising, and requires manufacturers, distributors, and retailers to notify FDA if they intend to use an advertising medium that is not listed in the regulations. The concept of permitted advertising in § 1140.30 is sufficiently broad to encompass most forms of advertising. FDA estimates that approximately 300 respondents will submit an annual notice of alternative advertising, and the Agency has estimated it should take 1 hour to provide such notice.

For the recordkeeping and disclosure requirements, § 1140.32 requires competent and reliable survey evidence to establish whether a newspaper, magazine, periodical, or other publication qualifies as an ''adult'' publication. Section 1140.32 also requires the use of a black text on a white background for labeling and advertising. The respondent and hourly burden for recordkeeping and disclosure under this section (2 burden hours total) reflect placeholders for the number of manufacturers who would keep records under this section.

During the next 3 years, FDA does not intend to enforce the recordkeeping and disclosure requirements of § 1140.32 and has revised the burden to act as a placeholder in the event FDA exercises its authority to enforce the requirements of this section in the future.

FDA estimates that the total time required for this collection of information is 302 hours.

Dated: April 2, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–08034 Filed 4–5–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0248]

Center for Biologics Evaluation and Research eSubmitter Pilot Evaluation Program for Investigational New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration's (FDA's) Center for Biologics Evaluation and Research (CBER) is announcing an invitation to sponsors of investigational new drug (IND) applications to participate in a pilot evaluation program for CBER's eSubmitter Program (eSubmitter). CBER's eSubmitter is a computer-assisted automated program that has been customized to facilitate the creation of IND applications in electronic format, including a template specifically for IND applications related to antivenom drugs/antivenins. Participation in the pilot program is open to sponsors that submit IND applications to the Office of Blood Research and Review, the Office of Cellular, Tissue and Gene Therapy, or the Office of Vaccines Research and Review in CBER. CBER will only accept participation from up to nine sponsors. The pilot program is intended to provide industry and CBER regulatory review staff with an opportunity to evaluate the eSubmitter system and determine if it facilitates the IND submission process. The purpose of this notice is to invite sponsors of IND applications to contact CBER for more information if they are interested in participating in this pilot program.

DATES: Submit an electronic request for participation in this program by July 8, 2013.

ADDRESSES: If you are interested in participating in this program, you should submit an electronic request to *CBER_eSubmitter_program @fda.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Lore Fields, Office of Blood Research and Review, Center for Biologics Evaluation and Research (HFM–375), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6143, FAX: 301–827–3534, email: *lore.fields@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

CBER regulates certain biological products and is committed to advancing the public health through innovative activities that help ensure the safety, effectiveness, and timely delivery of these products to patients. Further, CBER seeks to continuously enhance and update the efficiency and quality of its regulatory review process and to facilitate its interaction with stakeholders by providing CBER staff and industry with improved processes. In support of this goal, CBER has participated in FDA's development of eSubmitter to improve the process for providing certain regulatory submissions to FDA.

II. eSubmitter Pilot Evaluation Program Expectations

The eSubmitter pilot evaluation program is expected to last approximately 6 months. During this period of time, participants will complete their IND application submissions using the eSubmitter template developed by FDA that has been specifically designed for use by IND sponsors. eSubmitter was developed using the same criteria for applications that are currently used in the IND application review process at CBER. To create the IND application, the participant will enter the requested information into the eSubmitter tool and attach requested documents as an Adobe document (pdf format). This information will be saved onto a CD–ROM by the sponsor and mailed to CBER for review. Paper copies of submissions will not be required. CBER will review the information provided on

the CD–ROM and the attachments according to current managed review procedures. Only new IND applications and their amendments will be eligible for participation in the pilot program.

During the IND application process, CBER staff will be available to answer any questions or concerns that may arise. As each application is completed, the users will be asked to comment on the eSubmitter program. These comments and discussions will assist CBER in the final development and release of this electronic program for use by industry.

III. Requests for Participation

Requests to participate in the eSubmitter Pilot Evaluation Program should be sent electronically to *CBER_eSubmitter_program @fda.hhs.gov.* You should include the following information in your request: Contact name, contact phone number, email address, name of the facility, address, and registration number (if applicable). Once requests for participation are received, FDA will contact interested sponsors to discuss the pilot program.

Dated: April 2, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–08012 Filed 4–5–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–D–0369]

Draft and Revised Draft Guidances for Industry Describing Product-Specific Bioequivalence Recommendations; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of additional draft and revised draft product-specific bioequivalence (BE) recommendations. The recommendations provide product-specific guidance on the design of BE studies to support abbreviated new drug applications (ANDAs). In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products,'' which explained the process that would be used to make product-specific BE recommendations available to the public on FDA's Web site. The BE recommendations identified in this notice were developed using the process described in that guidance.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comments on these draft and revised draft guidances before it begins work on the final versions of the guidances, submit either electronic or written comments on the draft and revised draft product-specific BE recommendations listed in this notice by June 7, 2013.

ADDRESSES: Submit written requests for single copies of the individual BE guidances to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance recommendations.

Submit electronic comments on the draft product-specific BE recommendations to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kris André, Center for Drug Evaluation and Research (HFD–600), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9326.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products,'' which explained the process that would be used to make product-specific BE recommendations available to the public on FDA's Web site at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.* As described in that guidance, FDA adopted this process as a means to develop and disseminate product-specific BE recommendations and provide a meaningful opportunity for the public to consider and comment on those recommendations. Under that process, draft recommendations are posted on FDA's Web site and announced periodically in the **Federal Register**. The public is encouraged to submit comments on those recommendations within 60 days of their announcement in the **Federal Register**. FDA considers any comments received and either publishes final recommendations or publishes revised draft recommendations for comment. Recommendations were last announced in the **Federal Register** of December 17, 2012 (77 FR 74669). This notice announces draft product-specific recommendations, either new or revised, that are being posted on FDA's Web site concurrently with publication of this notice.

II. Drug Products for Which New Draft Product-Specific BE Recommendations Are Available

FDA is announcing new draft product-specific BE recommendations for drug products containing the following active ingredients:

A

Albuterol sulfate (multiple RLDs)
Amoxicillin

C

Cefixime

D

Desipramine hydrochloride
Desvenlafaxine
Dutasteride; tamsulosin hydrochloride

E

Estramustine phosphate sodium
Ethinyl estradiol, etonogestrel
Ethionamide
Ezogabine

F

Flutamide

H

Hydrocortisone

I

Icosapent ethyl

K

Ketorolac tromethamine

L

Loratadine

M

Miconazole
Minocycline hydrochloride
Mitotane

N

Nevirapine

P

Phentermine hydrochloride; topiramate

R

Rimexolone
Rizatriptan benzoate

S

Silodosin

T

Testosterone (multiple reference listed drugs and dosage forms)

Z

Zolpidem tartrate

III. Drug Products for Which Revised Draft Product-Specific BE Recommendations Are Available

FDA is announcing revised draft product-specific BE recommendations for drug products containing the following active ingredients:

C

Cefixime

D

Darunavir ethanolate
Dextromethorphan hydrobromide; quinidine sulfate

I

Imatinib mesylate

L

Loteprednol etabonate

For a complete history of previously published **Federal Register** notices related to product-specific BE recommendations, please go to *http://www.regulations.gov* and enter docket number FDA–2007–D–0369.

These draft and revised draft guidances are being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). These guidances represent the Agency's current thinking on product-specific design of BE studies to support ANDAs. They do not create or confer any rights for or on any person and do not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

IV. Comments

Interested persons may submit either electronic comments on any of the specific BE recommendations posted on FDA's Web site to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. The guidances, notices, and 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.*

V. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceCompliance RegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: April 2, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–08013 Filed 4–5–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–0349]

Draft Guidance for Industry on Providing Postmarket Periodic Safety Reports in the International Conference on Harmonisation E2C(R2) Format (Periodic Benefit-Risk Evaluation Report); Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Providing Postmarket Periodic Safety Reports in the ICH E2C(R2) Format (Periodic Benefit-Risk Evaluation Report).'' This guidance is intended to inform applicants of the conditions under which FDA will exercise its waiver authority to permit applicants to submit an International Conference on Harmonisation (ICH) E2C(R2) Periodic Benefit-Risk Evaluation Report (PBRER) in place of the ICH E2C(R1) Periodic Safety Update Report (PSUR), U.S. periodic adverse drug experience report (PADER), or U.S. periodic adverse experience report (PAER), to satisfy the periodic safety reporting requirements in FDA regulations. The guidance describes the steps applicants can take to submit the PBRER, and discusses the format, content, submission deadline, and frequency of reporting for the PBRER.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by May 8, 2013.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002, or the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance may also be obtained by calling CBER at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

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

FOR FURTHER INFORMATION CONTACT: Jean Chung, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 4466, Silver Spring, MD 20993–0002, 301–796–2380; or Stephen Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Providing Postmarket Periodic Safety Reports in the ICH E2C(R2) Format (Periodic Benefit-Risk Evaluation Report).'' We are issuing the draft guidance to describe the conditions under which FDA will exercise its waiver authority to permit the holders of approved new drug applications, abbreviated new drug applications, and biologics license applications (applicants) to use the reporting format of the PBRER to submit periodic safety reports for their marketed products. The harmonized PBRER is intended to promote a consistent approach to periodic postmarket safety reporting among the ICH regions (the European Union, Japan, and the United States) and to enhance efficiency by reducing the number of reports generated for submissions to the regulatory authorities.

FDA's postmarket safety reporting regulations require applicants to submit periodic safety reports in the form of a

Periodic Adverse Drug Experience Report (PADER) (for drugs) or a Periodic Adverse Experience Report (PAER) (for biologics) (21 CFR 314.80(c)(2) and 600.80(c)(2), respectively). FDA has routinely granted waivers under 21 CFR 314.90(b) and 600.90(b) permitting applicants to submit an internationally harmonized Periodic Safety Update Report (PSUR) prepared in accordance with ICH E2C (see 62 FR 27470 (May 19, 1997) and 69 FR 5551 (Feb. 5, 2004)) instead of a PADER/PAER under conditions stated in the waiver. On November 15, 2012, the ICH Steering Committee signed off on the ICH harmonized guideline ''Periodic Benefit-Risk Evaluation Report (PBRER) E2C(R2)'' and recommended that the PBRER format be adopted by the ICH regulatory bodies of the three regions. Therefore, the new and more comprehensive report format, the PBRER, has superseded the PSUR report format.

This guidance provides information on the steps applicants can take to submit a PBRER to the FDA in place of a PSUR, PADER, or PAER. The guidance discusses: (1) Applicants who have a waiver in place for their approved product to submit a PSUR instead of a PADER/PAER and (2) applicants who have not obtained a waiver and are currently submitting PADERs/PAERs as required under FDA regulations. Because the PBRER has replaced the PSUR as the ICH E2C harmonized postmarket safety report format, FDA is permitting applicants with an existing PSUR waiver to substitute the PBRER for the PSUR without submitting a new waiver request. This guidance describes the steps an applicant should take to submit the PBRER in place of the PSUR. For applicants who do not have a PSUR waiver in place for their approved application but would like to submit the PBRER in place of the PADER/PAER, this guidance provides information on how to submit a waiver request if they wish to do so.

This guidance describes the content, format, and submission deadlines applicants should follow when submitting the PBRER, as well as U.S.-specific appendices that should be submitted with the PBRER. It also explains how applicants can fulfill FDA's annual reporting requirement while submitting a harmonized PBRER that covers a longer reporting interval. In addition, the guidance notifies applicants that they may submit requests to be waived of the quarterly reporting requirement and instead, to submit PBRERs on a 6-month basis.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on providing postmarket periodic safety reports in the ICH E2C(R2) PBRER format. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

IV. The Paperwork Reduction Act of 1995

This draft guidance addresses information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520). The collections of information related to submission of waiver requests under §§ 314.90(a) and 600.90 have been approved under OMB control numbers 0910–0001 and 0910–0308. In accordance with the PRA, before publication of the final guidance document, FDA intends to solicit public comment and obtain OMB approval for any information collections recommended in this guidance that are new or that would represent material modifications to previously approved collections of information found in FDA regulations.

Dated: April 2, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–08014 Filed 4–5–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Tobacco Products Scientific Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Tobacco Products Scientific Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on April 30, 2013, from 8:30 a.m. to 5:30 p.m.

Location: 9200 Corporate Blvd., Rockville, MD 20850, 1–877–287–1373.

Contact Person: Caryn Cohen, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 1–877–287–1373 (choose option 5), email: *TPSAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: Modified risk tobacco products (MRTPs) are tobacco products that are sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products. Before an MRTP can be introduced or delivered for introduction into interstate commerce, an order from

FDA under section 911(g) (21 U.S.C. 387k(g)) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) must be in effect with respect to the tobacco product. 21 U.S.C. 387k(a). Any person may submit an application seeking an order under section 911(g) of the FD&C Act.

Section 911(f) of the FD&C Act (21 U.S.C. 387k(f)) requires FDA to refer modified risk tobacco product applications to the Tobacco Products Scientific Advisory Committee (TPSAC) for its recommendations. TPSAC is required to report its recommendations on an application to FDA no later than 60 days after the date the application is referred to them. 21 U.S.C. 387k(f)(2). On April 30, 2013, FDA will present information to the committee on the process it will use to refer individual modified risk tobacco product applications to TPSAC.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: On April 30, 2013, from 8:30 a.m. to 3 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before April 23, 2013. Oral presentations from the public will be scheduled between approximately 11 a.m. and 12 noon on April 30, 2013. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 15, 2013. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 16, 2013.

Closed Committee Deliberations: On April 30, 2013 from 3:30 p.m. to 5:30 p.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential commercial information (5 U.S.C. 552b(c)(4)).

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Caryn Cohen at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 3, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–08069 Filed 4–5–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0329]

Center for Devices and Radiological Health: Health of Women Program; Public Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following public workshop: ''The Center for Devices and Radiological Health (CDRH) Health of Women (HoW) Program: Educate, Enable, Enlist and Explore—HoW to Improve the Health of Women.'' CDRH is developing the HoW Program to explore unique issues in the regulation of medical devices related to the health of women and seeks public input on the priority activities. The CDRH HoW program seeks to bring together industry, clinicians, researchers, academia, government agencies, and patient/advocacy groups in an effort to: (1) Highlight device-specific clinical Study recruitment and retention strategies; (2) improve analysis and communication of sex-specific findings to providers and patients; (3) develop a priority research road map for the HoW device ecosystem. The workshop focus will be device- and disease-specific, patient centered, and action oriented.

Dates and Times: The public workshop will be held on June 24, 2013, from 8 a.m. to 5 p.m. and June 25, 2013, from 8 a.m. to 5 p.m.

Location: The public workshop will be held on FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 66, Silver Spring, MD 20993.

Contact: Nada Hanafi, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5422, Silver Spring, MD 20993–0002, 301–796–5427, *Nada.Hanafi@fda.hhs.gov;* or Kathryn O'Callaghan, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 5568, Silver Spring, MD 20993–0002, 301–796–6349, *Kathryn.OCallaghan@fda.hhs.gov.*

Registration: Registration is free and available on a first-come, first-served basis. Persons interested in attending this public workshop must register online by 5 p.m. on June 14, 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 permits, onsite registration will be provided beginning at 7:30 a.m. on the day of the public workshop.

If you need special accommodations due to a disability, please contact Joyce Raines (*Joyce.Raines@fda.hhs.gov* or 301–796–5709) by 5 p.m. on June 14, 2013.

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* and select this public workshop from the posted events list. Please provide complete contact information for each attendee, including name, title, affiliation, address, email, telephone number and primary HoW Program area of expertise or interest. Registrants will receive confirmation after they have been accepted. You will be notified if you are on a waiting list.

Streaming Webcast of the public workshop: The plenary portions of this

workshop will be Webcast. Persons interested in viewing the Webcast must register online by 5 p.m. on June 14, 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 connection access information after June 19, 2013. An archived file of the Webcast will 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).

Workshop format: This workshop will begin with plenary sessions to outline the three primary areas of focus for the CDRH HoW Program. In each area, panels will examine major themes using data-driven case studies with a focus on practical strategies relevant to particular challenges in the medical device arena. Participants will then rotate through breakout sessions, collectively building an action plan for each activity area. The meeting will conclude with specific commitments by stakeholder groups to partner with CDRH and each other in a collaborative effort to educate, enable, enlist and explore, with a common goal of improving the health of women.

Comments: In order to permit the widest possible opportunity to obtain public information from interested persons on the workshop topics, FDA is opening the docket to gather electronic or written comments on the three areas of focus for the HoW workshop identified in section II. Comments received will be reviewed by FDA as part of this effort. The deadline for submitting comments related to this public workshop topic is July 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.*

SUPPLEMENTARY INFORMATION:

I. Background

The mission of the CDRH Health of Women (HoW) Program:

To improve the health of women by:

- Improving the availability, consistency, and communication of sex-specific information for the safe and effective use of medical devices in women;
- addressing identified gaps and unmet needs through targeted resources; and
- fostering the development of innovative strategies, technology, and clinical study paradigms.

A key priority in regulatory science for CDRH is improving the health of special populations and addressing their unique health-related issues.[1] CDRH recognizes women as a special population, and seeks to identify and address differences in the safety, effectiveness, and utilization of medical devices for women. There are unique issues in the regulation of medical devices for use by women, which include:

- Uncertainty about medical device performance in women due to inconsistent data analysis and under-representation of women in clinical trials
- Baseline differences in anatomy, physiology, risk factors, disease signs/symptoms, and comorbidities that may be associated with different outcomes of device use
- Potential differences in health communication/health seeking behavior that may impact FDA communication of medical device benefit-risk information to this population
- Different considerations regarding effects of hormones through life stages (first menstrual period (menarche) to menopause; hormone replacement therapy)
- Unique risks and needs related to medical device research involving women of childbearing potential
- Unique risks and needs for pregnant females associated with the use of medical devices, including risk of birth defects (teratogenicity) or complications of pregnancy arising from medical device components such as drugs, chemicals, and certain biomaterials

[1] Food and Drug Administration, ''Regulatory Science in FDA's Center for Devices and Radiological Health: A Vital Framework for Protecting and Promoting Public Health,'' *http://www.fda.gov/downloads/AboutFDA/CentersOffices/CDRH/CDRHReports/ucm274162.pdf.*

II. Topics for Discussion in the Docket and at the Public Workshop

Topics for discussion include:

1. Device-specific clinical study recruitment and retention strategies;
2. Analysis and communication of sex-specific findings to providers and patients; and
3. Priority research road map for the HoW device ecosystem.

Dated: April 2, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–08015 Filed 4–5–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Health Resources and Services Administration (HRSA) will submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. To request a copy of the clearance requests submitted to OMB for review, email *paperwork@hrsa.gov* or call the HRSA Reports Clearance Office at (301) 443–1984.

Information Collection Request Title: National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners—45 CFR Part 60 Regulations and Forms OMB No. 0915–0126—Revision

Abstract: This is a request for a revision of OMB approval of the information collections contained in regulations found at 45 CFR part 60 governing the National Practitioner Data Bank (NPDB) and the forms to be used in registering with, reporting information to, and requesting information from the NPDB. Section 6403 of the Patient Protection and Affordable Care Act of 2010 (Affordable Care Act) Public Law 111–148 requires the transfer of all data in the Healthcare Integrity and Protection Data Bank

(HIPDB) to the NPDB. Data collection will not change; however, the merger will consolidate forms from OMB No. 0915–0239 for HIPDB under OMB No. 0915–0126 for NPDB. Responsibility for NPDB implementation and operation resides in the Bureau of Health Professions, Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS). Operation of the HIPDB was delegated by the HHS Office of the Inspector General to HRSA. This rule eliminates duplicative data reporting and access requirements between the HIPDB [established through the Health Insurance Portability and Accountability Act of 1996 (HIPPA) under Section 1128(b)(5) of the Social Security Act (42 U.S.C. 1320a–7e)] and the NPDB [established through the Health Care Quality Improvement Act of 1986 under Title IV (42 U.S.C. 11101 *et seq.*) and expanded by Section 1921 of the Social Security Act (42 U.S.C. 1396r–2)]. Information previously collected and disclosed through the HIPDB will be collected and disclosed through the NPDB. Section 6403 of the Affordable Care Act consolidates the collection and disclosure of information from both data banks under Title 45 part 60 of the Code of Federal Regulations (CFR). HHS will subsequently remove Title 45 part 61, which implemented the HIPDB.

The intent of NPDB is to improve the quality of health care by encouraging hospitals, state licensing boards, professional societies, and other entities providing health care services, to identify and discipline those who engage in unprofessional behavior; and to restrict the ability of incompetent health care practitioners, providers, or suppliers to move from state to state without disclosure of previous damaging or incompetent performance. It also serves as a fraud and abuse clearinghouse for the reporting and disclosing of certain final adverse actions (excluding settlements in which no findings of liability have been made) taken against health care practitioners, providers, or suppliers by health plans, federal agencies, and state agencies.

The NPDB acts primarily as a flagging system; its principal purpose is to facilitate comprehensive review of practitioners' professional credentials and background. Information is collected from, and disseminated to, eligible entities (entities that are entitled to query and/or report to the NPDB under the three aforementioned statutory authorities) on the following: (1) Medical malpractice payments, (2) licensure actions taken by Boards of Medical Examiners, (3) state licensure and certification actions, (4) federal licensure and certification actions, (5) negative actions or findings taken by peer review organizations or private accreditation entities, (6) adverse actions taken against clinical privileges, (7) federal or state criminal convictions related to the delivery of a health care item or service, (8) civil judgments related to the delivery of a health care item or service, (9) exclusions from participation in federal or state health care programs, and (10) other adjudicated actions or decisions. It is intended that NPDB information should be considered with other relevant information in evaluating credentials of health care practitioners, providers, and suppliers.

The reporting forms and the request for information forms (query forms) are accessed, completed, and submitted to the NPDB electronically through the NPDB Web site at *http://www.npdb-hipdb.hrsa.gov/.* All reporting and querying is performed through this secure Web site.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

The annual estimate of burden is as follows:

Regulation citation	Form name	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
§ 60.6: Reporting errors, omissions, revisions or whether an action is on appeal.	Correction, Revision to Action, Correction of Revision to Action, Void, Notice of Appeal.	38,785	1	38,785	.25	9,696
§ 60.7: Reporting medical malpractice payments.	Medical Malpractice Payment.	14,193	1	14,193	.75	10,645
§ 60.8: Reporting licensure actions taken by Boards of Medical Examiners & § 60.9: Reporting licensure and certification actions taken by States.	State Licensure	28,700	1	28,700	.75	21,525
§ 60.10: Reporting Federal licensure and certification actions.	DEA/Federal Licensure	499	1	499	.75	374
§ 60.11: Reporting negative actions or findings taken by peer review organizations or private accreditation entities.	Peer Review Organization	10	1	10	.75	8
	Accreditation	10	1	10	.75	8
§ 60.12: Reporting adverse actions taken against clinical privileges.	Title IV Clinical Privileges Actions.	962	1	962	.75	722
	Professional Society	71	1	71	.75	53

Regulation citation	Form name	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
§ 60.13: Reporting Federal or State criminal convictions to the delivery of a health care item or service.	Criminal Conviction (Guilty Plea or Trial).	1,023	1	1,023	.75	767
	Deferred Conviction or Pre-Trial Diversion.	126	1	126	.75	95
	Nolo Contendere (No Contest) Plea.	63	1	63	.75	47
	Injunction	10	1	10	.75	8
§ 60.14: Reporting civil judgments related to the delivery of a health care item or service.	Civil Judgment	10	1	10	.75	8
§ 60.15: Reporting exclusions from participation in Federal or State health care programs.	Exclusion/Debarment	2,402	1	2,402	.75	1,802
§ 60.16: Reporting other adjudicated actions or decisions.	Government Administrative	2,682	1	2,682	.75	2,012
	Health Plan Action	561	1	561	.75	421
§ 60.18 Requesting Information from the NPDB.	One Time Query for an Individual.	986,552	1	986,552	.08	78,924
	One Time Query for an Organization.	18,892	1	18,892	.08	1,511
	Self-Query on an Individual	154,824	1	154,824	.42	65,026
	Self-Query on an Organization.	1,095	1	1,095	.42	460
	Continuous Query	387,767	1	387,767	.08	31,021
§ 60.21: How to dispute the accuracy of NPDB information.	Subject Statement and Dispute.	3,347	1	3,347	.75	2,510
	Request for Secretarial Review.	83	1	83	8	664
Administrative	Entity Registration (Initial)	35,915	1	35,915	1	35,915
	Entity Registration (Renewal & Update).	15,461	1	15,461	.08	1,237
	Agent Registration (Initial)	100	1	100	.25	25
	Agent Registration (Renewal & Update).	100	1	100	.25	25
	Electronic Transfer of Funds (EFT)Authorization.	562	1	562	.25	141
	Authorized Agent Designation.	1,290	1	1,290	.25	323
	Account Discrepancy	20	1	20	.25	5
Total		1,696,115		1,696,115		265,978

ADDRESSES: Submit your comments to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806. Please direct all correspondence to the ''attention of the desk officer for HRSA.''

Deadline: Comments on this ICR should be received within 30 days of this notice.

Dated: April 1, 2013.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2013–08071 Filed 4–5–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Environmental Health Sciences Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the 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 Advisory Environmental Health Sciences Council.

Date: May 14–15, 2013.

Open: May 14, 2013, 8:30 a.m. to 5:00 p.m.

Agenda: Discussion of program policies and issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Closed: May 15, 2013, 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

Contact Person: Gwen W Collman, Ph.D., Interim Director, Division of Extramural Research & Training, National Institutes of Health, Nat. Inst. of Environmental Health Sciences, 615 Davis Dr., KEY615/3112, Research Triangle Park, NC 27709 (919) 541–4980, *collman@niehs.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.niehs.nih.gov/dert/c-agenda.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: April 2, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–08008 Filed 4–5–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, April 30, 2013, 09:00 a.m. to April 30, 2013, 05:30 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on April 02, 2013, FR 78 19724–19725.

The meeting will be held on May 2, 2013. The meeting time and location remain the same. The meeting is closed to the public.

Dated: April 2, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–08003 Filed 4–5–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Deafness and Other Communication Disorders Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the 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 Deafness and Other Communication Disorders Advisory Council.

Date: May 31, 2013.

Closed: 8:30 a.m. to 10:20 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Open: 10:20 a.m. to 1:50 p.m.

Agenda: Staff reports on divisional, programmatic, and special activities.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Contact Person: Craig A. Jordan, Ph.D. Director, Division of Extramural Activities, NIDCD, NIH, Executive Plaza South, Room 400C, 6120 Executive Blvd., Bethesda, MD 20892–7180, 301–496–8693, *jordanc@nidcd.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.nidcd.nih.gov/about/groups/ndcdac/ndcdac.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: April 1, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–08007 Filed 4–5–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council on Alcohol Abuse and Alcoholism.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the 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 Advisory Council on Alcohol Abuse and Alcoholism.

Date: June 12–13, 2013.

Closed: June 12, 2013.

Time: 5:00 p.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Terrace Level Conference Rooms, Bethesda, MD 20851.

Open: June 13, 2013, 8:45 a.m. to 2:00 p.m.

Agenda: Presentations and other business of the council.

Place: National Institutes of Health, 5635 Fishers Lane, Terrace Level Conference Rooms, Rockville, MD 20851.

Contact Person: Abraham P. Bautista, Ph.D. Executive Secretary, National Institute on Alcohol Abuse & Alcoholism National Institutes of Health, 5635 Fishers Lane, Rm. 2085, Rockville, MD 20852, 301–443–9737, *bautista@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://www.niaaa.nih.gov/AboutNIAAA/AdvisoryCouncil/Pages/default.aspx* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.273, Alcohol Research Programs, National Institutes of Health, HHS)

Dated: April 2, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–08005 Filed 4–5–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel Loan Repayment Program—SEP.

Date: May 2, 2013.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, Room 3055, 5635 Fishers Lane, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Keith McKenney, Ph.D., Scientific Review Officer, National Human Genome Research Institute, 5635 Fishers Lane, Suite 4076, Bethesda, MD 20814, 301–594–4280, *mckenneyk@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: April 2, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–08004 Filed 4–5–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, ''Leadership Group for a Clinical Research Network on Therapeutics for HIV/AIDS and HIV-associated Infections in Adults (UM1)''.

Date: May 1–2, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda Downtown, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Peter R. Jackson, Ph.D., Chief, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, DHHS, 6700–B Rockledge Drive, Room 3133, MSC 7616, Bethesda, MD 20892–7616, 301–496–2550, *pjackson@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, NIAID Investigator Initiated Program Project Applications (P01).

Date: May 3, 2013.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817(Telephone Conference Call).

Contact Person: Edward W. Schroder, Ph.D., Chief, Microbiology Review Branch, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 3116, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–435–8537, *eschroder@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 2, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–08006 Filed 4–5–13; 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: Viruses.

Date: April 29–30, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Fouad A El-Zaatari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, MSC 7808, Bethesda, MD 20892, (301) 435–1149, *elzaataf@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: April 2, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–08002 Filed 4–5–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2013–0004]

National Infrastructure Advisory Council; Notice of Meeting

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: Committee Management; Notice of an Open Federal Advisory Committee Meeting.

SUMMARY: The National Infrastructure Advisory Council (NIAC) will meet Monday, April 8, 2013, at the United States Access Board, 1331 F Street NW., Suite 800, Washington, DC 20004. The meeting will be open to the public.

DATES: The NIAC will meet Monday, April 8, 2013, from 1:30 p.m. to 4:30 p.m. The meeting may close early if the committee has completed its business. For additional information, please consult the NIAC Web site, *www.dhs.gov/NIAC,* or contact the NIAC Secretariat by phone at (703) 235–2888 or by email at *NIAC@hq.dhs.gov*.

ADDRESSES: United States Access Board, 1331 F Street NW., Suite 800, Washington, DC 20004.

Persons attending meetings in the Access Board's conference space are requested to refrain from using perfume, cologne, and other fragrances (see *http://www.access-board.gov/about/policies/fragrance.htm* for more information).

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the person listed under **FOR FURTHER INFORMATION CONTACT** below as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the Council as listed in the ''Summary'' section below. Comments must be submitted in writing no later than 12:00 p.m. on April 8, 2013, and must be identified by ''DHS–2013–0004'' and may be submitted by any *one* of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov*. Follow the instructions for submitting written comments.
- *Email: NIAC@hq.dhs.gov*. Include the docket number in the subject line of the message.
- *Fax:* (703) 603–5098.
- *Mail:* Nancy Wong, National Protection and Programs Directorate, Department of Homeland Security, 245 Murray Lane SW., Mail Stop 0607, Arlington, VA 20598–0607.

Instructions: All written submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Written comments received will be posted without alteration at *www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the NIAC, go to *www.regulations.gov*.

Members of the public will have an opportunity to provide oral comments after the presentation of the report from the Regional Resilience Working Group. We request that comments be limited to the issues listed in the meeting agenda and previous NIAC studies. All previous NIAC studies can be located at *www.dhs.gov/NIAC*. Relevant public comments may be submitted in writing or presented in person for the Council to consider. Comments received by Nancy Wong after 12:00 p.m. on April 8, 2013, will still be accepted and reviewed by the members, but not necessarily by the time of the meeting. In-person presentations will be limited to three minutes per speaker, with no more than 30 minutes for all speakers. Parties interested in making in-person comments should register no later than 15 minutes prior to the beginning of the meeting at the meeting location.

FOR FURTHER INFORMATION CONTACT: Nancy Wong, National Infrastructure Advisory Council Designated Federal Officer, Department of Homeland Security, telephone (703) 235–2888.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463). The NIAC shall provide the President through the Secretary of Homeland Security with advice on the security and resilience of the Nation's critical infrastructure sectors and their information systems.

The NIAC will meet to discuss issues relevant to the critical infrastructure protection and resilience as directed by the President. At this meeting, the committee will receive and discuss a presentation from the NIAC Regional Resilience Working Group documenting their work to date on the Regional Resilience Study, which includes the role and impact of critical infrastructure on regional resiliency, best regional practices and models, and the contribution of public private partnerships. The presentation will be posted no later than one week prior to the meeting on the Council's public Web page on *www.dhs.gov/NIAC*. The Council will review and discuss the findings of the Working Group. Federal officials will brief the members on the recently issued Executive Order 13636 and Presidential Policy Directive 21 to receive comments. Federal officials will also provide further direction to the Council on the scope of the Working Group's study, and on potential new topics for study by the Council.

The Federal Advisory Committee Act requires that notices of meetings of advisory committees be announced in the **Federal Register** 15 days prior to the meeting date. However, this notice of the NIAC meeting is being published in the **Federal Register** on April 8, 2013, zero days prior to the meeting due to an immediate need by DHS to receive advice on the new implementation of Executive Order 13636 and Presidential Policy Directive 21. Both mandate comprehensive consultation with stakeholders in very short time lines for implementation. Although the meeting notice was published in the **Federal Register** late, the date of the meeting has been posted on the Council's public Web site on *www.dhs.gov* since January 2013. Additional outreach will be accomplished through trade and professional associations.

Meeting Agenda

I. Opening of Meeting
II. Roll Call of Members
III. Opening Remarks and Introductions
IV. NIAC Presentation on Regional Resilience Working Group
V. Public Comment: Discussion Limited to Meeting Agenda Items and Previous NIAC Studies
VI. Regional Resilience Working Group Discussion
VII. Briefing and Discussion on Executive Order 13636 and Presidential Policy Directive 21 by the Department of Homeland Security
VIII. Identification of Potential Areas to Recommend for Next NIAC Study
IX. Closing Remarks

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the NIAC Secretariat at (703) 235–2888 as soon as possible.

Dated: April 3, 2013.

Nancy Wong,

Designated Federal Officer for the NIAC.

[FR Doc. 2013–08143 Filed 4–5–13; 8:45 am]

BILLING CODE 9110–09–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: New or modified Base (1% annual-chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or the regulatory floodway (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard determinations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

These new or modified flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

These new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Alabama: Coffee (FEMA Docket No.: B–1285).	City of Enterprise (12–04–4332P)	The Honorable Kenneth Boswell, Mayor, City of Enterprise, 501 South Main Street, Enterprise, AL 36331.	City Hall, 501 South Main Street, Enterprise, AL 36331.	February 7, 2013	010045
Arizona:					
Maricopa (FEMA Docket No.: B–1288).	Unincorporated areas of Maricopa County. (12–09–2621P)	The Honorable Max W. Wilson, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson, 10th Floor, Phoenix, AZ 85003.	Maricopa County Flood Control District, 2801 West Durango Street, Phoenix, AZ 85009.	January 25, 2013	040037
Pinal (FEMA Docket No.: B–1285).	City of Eloy (12–09–1641P)	The Honorable Joseph Nagy, Mayor, City of Eloy, 628 North Main Street, Eloy, AZ 85131.	City Hall, 628 North Main Street, Eloy, AZ 85131.	February 25, 2013	040083
Pinal (FEMA Docket No.: B–1285).	Unincorporated areas of Pinal County. (12–09–1641P)	The Honorable David Snider, Chairman, Pinal County Board of Supervisors, P.O. Box 827, Florence, AZ 85132.	Pinal County Engineering Department, 31 North Pinal Street, Building F, Florence, AZ 85232.	February 25, 2013	040077
Yavapai (FEMA Docket No.: B–1285).	Unincorporated areas of Yavapai County. (12–09–2033P)	The Honorable Thomas Thurman, Chairman, Yavapai County Board of Supervisors, 1015 Fair Street, Prescott, AZ 86305.	Yavapai County Flood Control District, 500 South Marina Street, Prescott, AZ 86303.	February 11, 2013	040093
California:					
Orange (FEMA Docket No.: B–1285).	City of Dana Point (12–09–1603P)	The Honorable Lara Anderson, Mayor, City of Dana Point, 33282 Golden Lantern, Dana Point, CA 92629.	City Hall, 33282 Golden Lantern, Dana Point, CA 92629.	February 11, 2013	060736
Orange (FEMA Docket No.: B–1285).	City of San Juan Capistrano. (12–09–1603P)	The Honorable Larry Kramer, Mayor, City of San Juan Capistrano, 32400 Paseo Adelanto, San Juan Capistrano, CA 92675.	City Hall, 32400 Paseo Adelanto, San Juan Capistrano, CA 92675.	February 11, 2013	060231
Santa Clara (FEMA Docket No.: B–1285).	City of Santa Clara (12–09–2856P)	The Honorable Jamie L. Matthews, Mayor, City of Santa Clara, 1500 Warburton Avenue, Santa Clara, CA 95050.	Planning and Inspection Department, 1500 Warburton Avenue, Santa Clara, CA 95050.	February 14, 2013	060350
Colorado:					

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Larimer (FEMA Docket No.: B–1280).	Town of Wellington (12–08–0629P)	The Honorable Travis Vieira, Mayor, Town of Wellington, P.O. Box 127, Wellington, CO 80549.	Town Hall, 3735 Cleveland Street, Wellington, CO 80549.	February 4, 2013	080104
Larimer (FEMA Docket No.: B–1280).	Unincorporated areas of Larimer County. (12–08–0629P)	The Honorable Lew Gaiter III, Chairman, Larimer County Board of Commissioners, P.O. Box 1190, Fort Collins, CO 80522.	Larimer County Courthouse, 200 West Oak Street, Fort Collins, CO 80521.	February 4, 2013	080101
Florida:					
Bay (FEMA Docket No.: B–1280).	City of Panama City Beach. (12–04–4609P)	The Honorable Gayle Oberst, Mayor, City of Panama City Beach, 110 South Arnold Road, Panama City Beach, FL 32413.	City Hall, Building Department, 110 South Arnold Road, Panama City Beach, FL 32413.	February 11, 2013	120013
Monroe (FEMA Docket No.: B–1286).	Unincorporated areas of Monroe County. (12–04–5100P)	The Honorable David Rice, Mayor, Monroe County, Marathon Airport Terminal, 9400 Overseas Highway, Suite 210, Marathon, FL 33050.	Monroe County Building Department, 2798 Overseas Highway, Suite 330, Marathon, FL 33050.	February 18, 2013	125129
Monroe (FEMA Docket No.: B–1286).	Unincorporated areas of Monroe County. (12–04–6679P)	The Honorable David Rice, Mayor, Monroe County, Marathon Airport Terminal, 9400 Overseas Highway, Suite 210, Marathon, FL 33050.	Monroe County Building Department, 2798 Overseas Highway, Suite 330, Marathon, FL 33050.	February 4, 2013	125129
Orange (FEMA Docket No.: B–1280).	City of Orlando, ... (12–04–6290P)	The Honorable Buddy Dyer, Mayor, City of Orlando, P.O. Box 4990, Orlando, FL 32808.	Permitting Services, 400 South Orange Avenue, Orlando, FL 32302.	February 4, 2013	120186
Sarasota (FEMA Docket No.: B–1280).	Town of Longboat Key. (12–04–4786P)	The Honorable Jim Brown, Mayor, Town of Longboat Key, 501 Bay Isles Road, Longboat Key, FL 34228.	Planning, Zoning, and Building Department, 501 Bay Isles Road, Longboat Key, FL 34228.	February 8, 2013	125126
Seminole (FEMA Docket No.: B–1280).	Unincorporated areas of Seminole County. (12–04–6244P)	The Honorable Brenda Carey, Chair, Seminole County Board of Commissioners, 1101 East 1st Street, Sanford, FL 32771.	Seminole County Public Works Department, 1101 East 1st Street, Sanford, FL 32771.	February 4, 2013	120289
North Carolina:					
Cabarrus (FEMA Docket No.: B–1285).	City of Kannapolis ... (11–04–6249P)	The Honorable Robert S. Misenheimer, Mayor, City of Kannapolis, 246 Oak Avenue, Kannapolis, NC 28081.	City Hall, 246 Oak Avenue, Kannapolis, NC 28081.	January 31, 2013	370469
Wake (FEMA Docket No.: B–1274).	Town of Fuquay-Varina. (11–04–7980P)	The Honorable John W. Byrne, Mayor, Town of Fuquay-Varina, 401 Old Honeycutt Road, Fuquay-Varina, NC 27526.	Engineering Department, 401 Old Honeycutt Road, Fuquay-Varina, NC 27526.	December 13, 2012	370239
South Carolina: Richland (FEMA Docket No.:, B–1285).	City of Columbia ..... (12–04–1814P)	The Honorable Steve Benjamin, Mayor, City of Columbia, P.O. Box 147, Columbia, SC 29201.	Department of Utilities and Engineering, 1136 Washington Street, Columbia, SC 29217.	February 11, 2013	450172
South Dakota: Pennington (FEMA Docket No.: B–1285).	City of Box Elder ..... (12–08–0544P)	The Honorable William F. Griffths, Sr., Mayor, City of Box Elder, 420 Villa Drive, Box Elder, SD 57719.	City Hall, 420 Villa Drive, Box Elder, SD 57719.	February 14, 2013	460089
Tennessee:					
Williamson (FEMA Docket No.: B–1280).	City of Franklin ..... (12–04–6046P)	The Honorable Ken Moore, Mayor, City of Franklin, 109 3rd Avenue South, Franklin, TN 37064.	City Hall, 109 3rd Avenue South, Franklin, TN 37064.	February 4, 2013	470206
Williamson (FEMA Docket No.: B–1280).	Unincorporated areas of Williamson County,. (12–04–6046P)	The Honorable Rodgers Anderson, Mayor, Williamson County, 1320 West Main Street, Suite 125, Franklin, TN 37064.	Williamson County Complex, Planning Department, 1320 West Main Street, Suite 125, Franklin, TN 37064.	February 4, 2013	470204
Utah:					
Washington (FEMA Docket No.: B–1286).	City of St. George ... (12–08–0643P)	The Honorable Daniel D. McArthur, Mayor, City of St. George, 175 East 200 North, St. George, UT 84770.	Engineering Department, 175 East 200 North, St. George, UT 84770.	February 25, 2013	490177
Wyoming:					
Crook (FEMA Docket No.: B–1280).	Town of Sundance .. (12–08–0746P)	The Honorable Paul S. Brooks, Mayor, Town of Sundance, 213 East Main Street, Sundance, WY 82729.	City Hall, 213 Main Street, Sundance, WY 82729.	February 8, 2013	560017
Sweetwater (FEMA Docket No.: B–1280).	City of Rock Springs (12–08–0454P)	The Honorable Carl R. Demshar, Jr., Mayor, City of Rock Springs, 212 D Street, Rock Springs, WY 82901.	Department of Public Works, 212 D Street, Rock Springs, WY 82901.	February 11, 2013	560051

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–08041 Filed 4–5–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1308]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR Part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Alabama: Jefferson.	City of Bessemer (12–04–6774P).	The Honorable Kenneth E. Gulley, Mayor, City of Bessemer, 1800 3rd Avenue North, Bessemer, AL 35020.	City Hall, Engineering Department, 1800 3rd Avenue North, Bessemer, AL 35020.	*http://www.bakeraecom.com/index.php/alabama/jefferson-3/.*	May 23, 2013	010115
Arizona: Cochise	City of Sierra Vista (12–09–2774P).	The Honorable Rick Mueller, Mayor, City of Sierra Vista, 1011 North Coronado Drive, Sierra Vista, AZ 85635.	Planning and Zoning Department, 1011 North Coronado Drive, Sierra Vista, AZ 85635.	*http://www.r9map.org/Docs/12–09–2774P–040017–102IAC.pdf.*	May 20, 2013	040017
California: Riverside	City of Murrieta (12–09–0685P).	The Honorable Rick Gibbs, Mayor, City of Murrieta, 24601 Jefferson Avenue, Murrieta, CA 92562.	Public Works and Engineering Department, 26442 Beckman County, Murrieta, CA 92562.	*http://www.r9map.org/Docs/12–09–0685P–060751–102IAC.pdf.*	May 24, 2013	060751

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Riverside	City of Temecula (12–09–0685P).	The Honorable Michael S. Naggar, Mayor, City of Temecula, 41000 Main Street, Temecula, CA 92590.	City Hall, 43200 Business Park Drive, Temecula, CA 92590.	*http://www.r9map.org/Docs/12–09–0685P–060742–102IAC.pdf.*	May 24, 2013	060742
Santa Clara	City of Milpitas (13–09–0070P).	The Honorable Jose Esteves, Mayor, City of Milpitas, 455 East Calaveras Boulevard, Milpitas, CA 95035.	Engineering Division, 455 East Calaveras Boulevard, Milpitas, CA 95035.	*http://www.r9map.org/Docs/13–09–0070P–060344–102IAC.pdf.*	May 24, 2013	060344
Colorado:						
Adams	City of Commerce City (13–08–0283P).	The Honorable Sean Ford, Sr., Mayor, City of Commerce City, 7887 East 60th Avenue, Commerce City, CO 80022.	Municipal Services Center, 8602 Rosemary Street, Commerce City, CO 80022.	*http://www.bakeraecom.com/index.php/colorado/adams/.*	June 5, 2013	080006
Adams	Unincorporated areas of Adams County (13–08–0283P).	The Honorable Eva J. Henry, Chair, Adams County Board of Commissioners, 4430 South Adams County Parkway, Suite C5000A, Brighton, CO 80601.	Adams County Public Works Department, 4430 South Adams County Parkway, Suite W2123, Brighton, CO 80601.	*http://www.bakeraecom.com/index.php/colorado/adams/.*	June 5, 2013	080001
Weld	Unincorporated areas of Weld County, (12–08–0745P).	The Honorable Sean Conway, Chairman, Weld County Board of Commissioners, P.O. Box 758, Greeley, CO 80632.	Weld County Public Works Department, 1111 H Street, Greeley, CO 80632.	*http://www.bakeraecom.com/index.php/colorado/weld/.*	May 3, 2013	080266
Florida:						
Alachua	City of Gainesville, (12–04–7870P).	The Honorable Craig Lowe, Mayor, City of Gainesville, 200 East University Avenue, Gainesville, FL 32601.	Public Works Department, 306 Northeast 6th Avenue, Gainesville, FL 32601.	*http://www.bakeraecom.com/index.php/florida/alachua/.*	May 24, 2013	125107
Orange	City of Orlando, (13–04–0278P).	The Honorable Buddy Dyer, Mayor, City of Orlando, P.O. Box 4990, Orlando, FL 32808.	One City Commons, 400 South Orange Avenue, 8th Floor, Orlando, FL 32839.	*http://www.bakeraecom.com/index.php/florida/orange-2/.*	May 24, 2013	120186
Santa Rosa	Unincorporated areas of Santa Rosa County, (13–04–0043P).	The Honorable Jim Williamson, Chairman, Santa Rosa County Board of Commissioners, 6495 Carolina Street, Suite M, Milton, FL 32570.	Santa Rosa County Development Services Department, 6051 Old Bagdad Highway, Room 202, Milton, FL 32583.	*http://www.bakeraecom.com/index.php/florida/santa-rosa/.*	April 4, 2013	120274
Georgia:						
Hall	Town of Braselton, (12–04–5040P).	The Honorable Bill Orr, Mayor, Town of Braselton, P.O. Box 306, Braselton, GA 30517.	Town Hall, 4982 Highway 53, Braselton, GA 30517.	*http://www.bakeraecom.com/index.php/georgia/hall/.*	May 20, 2013	130343
Hall	Unincorporated areas of Hall County, (12–04–5040P).	The Honorable Tom Oliver, Chairman, Hall County Board of Commissioners, P.O. Drawer 1435, Gainesville, GA 30503.	Hall County Engineering Department, 300 Green Street, Gainesville, GA 30503.	*http://www.bakeraecom.com/index.php/georgia/hall/.*	May 20, 2013	130466
Iowa: Dubuque	City of Dubuque, (12–07–2232P).	The Honorable Roy D. Buol, Mayor, City of Dubuque, 50 West 13th Street, Dubuque, IA 52001.	City Hall, 50 West 13th Street, Dubuque, IA 52001.	*http://www.starr-team.com/starr/LOMR/Pages/RegionVII.aspx.*	May 31, 2013	195180
South Carolina:						
Anderson	Unincorporated areas of Anderson County, (11–04–7512P).	The Honorable Thomas F. Allen, Chairman, Anderson County Council, P.O. Box 8002, Anderson, SC 29622.	Anderson County Courthouse, 101 South Main Street, Anderson, SC 29624.	*http://www.bakeraecom.com/index.php/southcarolina/anderson/.*	May 10, 2013	450013
Richland	City of Columbia, (11–04–8071P).	The Honorable Steve Benjamin, Mayor, City of Columbia, 1737 Main Street, Columbia, SC 29201.	City Hall, 1737 Main Street, Columbia, SC 29021.	*http://www.bakeraecom.com/index.php/southcarolina/richland/.*	April 29, 2013	450172
Tennessee:						

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Cocke	City of Newport, (13–04–0214P).	The Honorable Connie Ball, Mayor, City of Newport, 300 East Main Street, Newport, TN 37821.	Planning and Zoning Department, 300 East Main Street, Newport, TN 37821.	*http://www.bakeraecom.com/index.php/tennessee/cocke/.*	May 31, 2013	475440
Tennessee:						
Cocke	Unincorporated areas of Cocke County, (13–04–0214P).	The Honorable Vaughn Moore, Mayor, Cocke County, 360 East Main Street, Newport, TN 37821.	Cocke County Property Assessor's Office, 360 East Main Street, Newport, TN 37821.	*http://www.bakeraecom.com/index.php/tennessee/cocke/.*	May 31, 2013	470033

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–08042 Filed 4–5–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1310]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before July 8, 2013.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1310, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Community	Community map repository address
Effingham County, Georgia, and Incorporated Areas	
Maps Available for Inspection Online at: *http://georgiadfirm.com/status/mapmodStatus.html*	
City of Rincon	City Hall, 302 South Columbia Avenue, Rincon, GA 31326.
City of Springfield	City Hall, 130 South Laurel Street, Springfield, GA 31329.
Town of Guyton	City Hall, 310 Central Boulevard, Guyton, GA 31312.
Unincorporated Areas of Effingham County	Effingham County Administrative Complex, 601 North Laurel Street, Springfield, GA 31329.
Chatham County, Georgia, and Incorporated Areas	
Maps Available for Inspection Online at: *http://georgiadfirm.com/status/mapmodStatus.html*	
City of Bloomingdale	City Hall, 8 West U.S. Route 80, Bloomingdale, GA 31302.
City of Pooler	City Hall, 100 Southwest Highway 80, Pooler, GA 31322.
City of Port Wentworth	City Hall, 305 South Coastal Highway, 31407, GA 31407.
City of Savannah	City Hall, 2 East Bay Street, Savannah, GA 31402.
Unincorporated Areas of Chatham County	Chatham County Courthouse, 124 Bull Street, Suite 200, Savannah, GA 31401.
Bonner County, Idaho, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.starr-team.com/starr/RegionalWorkspaces/RegionX/PriestLake/SitePages/Home.aspx*	
Unincorporated Areas of Bonner County	Bonner County Planning Department, 1500 Highway 2, Suite 208, Sandpoint, ID 8386.
Dubois County, Indiana, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.in.gov/dnr/water/6676.htm*	
City of Huntingburg	City Hall, 508 East 4th Street, Huntingburg, IN 47542.
City of Jasper	City Hall, 610 Main Street, Jasper, IN 47547.
Town of Ferdinand	Town Hall, 2065 Main Street, Ferdinand, IN 47532.
Unincorporated Areas of Dubois County	Dubois County Courthouse, One Courthouse Square, Jasper, IN 47546.
Clay County, Kansas, and Incorporated Areas	
Maps Available for Inspection Online at: *www.agriculture.ks.gov/dwr/floodplain/mapping/Clay*	
City of Clay Center	City Hall, 427 Court Street, Clay Center, KS 67432.
City of Green	City Hall, 106 Dickson Avenue, Green, KS 67447.
City of Longford	City Hall, 102 Weda Street, Longford, KS 67458.
City of Morganville	City Office, 101 North Main Street, Morganville, KS 67468.
City of Oak Hill	City Hall, 210 Spears Street, Oak Hill, KS 67432.
City of Wakefield	City Office, 609 Grove Street, Wakefield, KS 67487.
Unincorporated Areas of Clay County	Clay County Courthouse, 712 5th Street, Clay Center, KS 67432.
Freeborn County, Minnesota, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.starr-team.com/starr/RegionalWorkspaces/RegionV/FreebornCoMN*	
City of Albert Lea	City Hall, 221 East Clark Street, Albert Lea, MN 56007.
City of Emmons	City Hall, 219 Main Street, Emmons, MN 56029.
City of Glenville	City Hall, 221 West Main Street, Glenville, MN 56036.
City of Hollandale	Government Center, 110 Park Avenue West, Hollandale, MN 56045.
City of Twin Lakes	City Hall, 101 Main Street West, Twin Lakes, MN 56089.
Unincorporated Areas of Freeborn County	Freeborn County Government Center, 411 South Broadway, Albert Lea, MN 56007.
McLeod County, Minnesota, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.starr-team.com/starr/RegionalWorkspaces/RegionV/McLeodCoMN*	
City of Biscay	McLeod County Sheriff's Office, 801 10th Street East, Glencoe, MN 55336.
City of Brownton	McLeod County Sheriff's Office, 801 10th Street East, Glencoe, MN 55336.
City of Glencoe	Administration Building, 1107 11th Street East, Glencoe, MN 55336.
City of Hutchinson	City Hall, 111 Hassan Street Southeast, Hutchinson, MN 55350.
City of Lester Prairie	City Hall, 37 Juniper Street North, Lester Prairie, MN 55354.
City of Plato	City Office, 112 2nd Avenue Northeast, Plato, MN 55370.

Community	Community map repository address
City of Silver Lake	City Hall, 308 Main Street West, Silver Lake, MN 55381.
City of Winsted	McLeod County Sheriff's Office, 801 10th Street East, Glencoe, MN 55336.
Unincorporated Areas of McLeod County	McLeod County Courthouse, 830 11th Street East, Glencoe, MN 55336.
Roseau County, Minnesota, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.starr-team.com/starr/RegionalWorkspaces/RegionV/RoseauCoMN*	
City of Greenbush	City Hall, 244 Main Street North, Greenbush, MN 56726.
City of Roseau	City Center, 121 Center Street East, Suite 202, Roseau, MN 56751.
City of Warroad	City Office, 121 Main Avenue Northeast, Warroad, MN 56763.
Unincorporated Areas of Roseau County	Roseau County Courthouse, 606 5th Avenue Southwest, Room 130, Roseau, MN 56751.
Pleasants County, West Virginia, and Incorporated Areas	
Maps Available for Inspection Online at: *www.rampp-team.com/wv.htm*	
City of St. Mary's	Court House, 418 Second Street, St. Marys, WV 26170.
Town of Belmont	Court House, 218 Main Street, Belmont, WV 26134.
Unincorporated Areas of Pleasants County	Pleasants County Court House, 301 Court Lane, Suite 101, St. Marys, WV 26170.
Brown County, Wisconsin, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.starr-team.com/starr/RegionalWorkspaces/RegionV/BrownWIPMR*	
The Oneida Nation of Wisconsin	Norbert Hill Center, North 7210 Seminary Road, Oneida, WI 54155.
Village of Hobart	Hobart Village Hall, 2990 South Pine Tree Road, Oneida, WI 54155.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–08046 Filed 4–5–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket No. FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1272]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency; DHS.

ACTION: Notice; correction.

SUMMARY: On November 8, 2012, FEMA published in the **Federal Register** a proposed flood hazard determination notice that contained an erroneous table. This notice provides corrections to that table, to be used in lieu of the information published at FR 77 67016.

DATES: The comment period is ninety (90) days following the second publication of this correction notice in a newspaper of local circulation in the community.

ADDRESSES: The proposed flood hazard information for the affected communities, as shown on the Preliminary FIRM and, where applicable, FIS report, is available for inspection at the Community Map Repositories at the addresses shown in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064 or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed in the table below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the table below. Any request for reconsideration of the revised flood hazard determinations shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations will also be considered before the FIRM and FIS report are made final.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP may only be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information

regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The communities affected are listed in the table below. The Preliminary FIRM and where applicable, Preliminary FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Correction

In the proposed flood hazard determination notice published at 77 FR 67016, the table contained inaccurate information as to the location of the Community Map Repository Address for the following communities: the Cities of Brandon and Florence and the Township of Puckett. In this notice, FEMA is publishing a table containing the accurate information, to address these prior errors. The information provided below should be used in lieu of that previously published.

Community	Community Map Repository Address
Rankin County, Mississippi, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.geology.deq.ms.gov/floodmaps/Projects/FY2009/?county=Rankin*	
City of Brandon	City Hall, 1000 Municipal Drive, Brandon, MS 39042.
City of Florence	City Hall, 203 College Street, Florence, MS 39073.
City of Flowood	City Hall, 2101 North Airport Road, Flowood, MS 39232.
City of Jackson	Department of Public Works, 200 South President Street, Jackson, MS 39205.
City of Pearl	City Hall, 2420 Old Brandon Road, Pearl, MS 39208.
City of Richland	City Hall, 380 Scarborough Street, Richland, MS 38218.
Pearl River Valley Water Supply District	Pearl River Valley Water Supply District, 115 Madison Landing Circle, Ridgeland, MS 39157.
Town of Pelahatchie	Town Hall, 705 2nd Street, Pelahatchie, MS 39145.
Township of Puckett	Town Hall, 6449 Highway 18, Puckett, MS 39042.
Unincorporated Areas of Rankin County	Rankin County Courthouse, 211 East Government Street, Brandon, MS 39042.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–08044 Filed 4–5–13; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

National Park Service

[FWS–R6–R–2013–N021; FXRS12 65066CCP0–134–FF06R06000]

Niobrara Confluence and Ponca Bluffs Conservation Areas, NE and SD; Draft Environmental Impact Statement and Land Protection Plan; Request for Public Comments

AGENCY: Fish and Wildlife Service, National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, U.S. Fish and Wildlife Service (FWS) and the National Park Service (NPS), as lead agencies, announce the availability of a draft environmental impact statement (DEIS) and land protection plan (LPP) for the proposed Niobrara Confluence Conservation Area and Ponca Bluffs Conservation Area in Nebraska and South Dakota for public review and comment. In these documents, we describe alternatives, including our proposed action, for implementing conservation actions along the Missouri River and its tributaries. We are furnishing this notice in compliance with the National Wildlife Refuge System Administration Act of 1966, as amended, the National Park Service Organic Act of 1916, as amended, and the National Environmental Policy Act to advise other agencies, Tribal governments, and the public of our intentions to provide the opportunity for public review and comment on the DEIS and LPP.

DATES: To ensure consideration, please send your written comments by June 14th, 2013. We will announce upcoming public meetings in local news media, on our Web site, and by mail.

ADDRESSES: You may submit your comments or a request for copies (hard copies or a CD–ROM) or more information by any of the following methods:

Agency Web site: http://parkplanning.nps.gov/niob-ponca.

Email: niobrara_ponca@fws.gov.

In-Person Viewing or Pickup: Call (605) 665–0209 to make an appointment during regular business hours at Missouri River National Recreational River Headquarters, 508 East 2nd Street, Yankton, SD 57078.

Mail: Nick Kaczor, USFWS, Division of Refuge Planning, P.O. Box 25486, DFC, Denver, CO 80225.

FOR FURTHER INFORMATION CONTACT: Nick Kaczor, Planning Team Leader, at (303) 236–4387, or by mail at Division of Refuge Planning, USFWS, P.O. Box 25486, DFC, Denver, CO 80225.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the LPP process for the proposed Niobrara Confluence and Ponca Bluffs Conservation Areas. We started this process through a notice in the **Federal Register** (77 FR 8892, February 15, 2012).

The proposed Niobrara Confluence and Ponca Bluffs Conservation Areas are partnership-based projects being taken on by the U.S. Fish and Wildlife Service and National Park Service, to build upon existing conservation efforts along the Missouri River in northeast Nebraska and southeast South Dakota. This proposal aims to work with willing private landowners, local communities, and other conservation entities to conserve important wildlife habitats, increase quality recreational opportunities, preserve sensitive historical sites, and maintain sustainable ranching operations.

The Missouri River

The Missouri River is the artery to America's heartland, coursing its way

through the scenic landscapes of the Great Plains to the Eastern deciduous forest. It drains one-sixth of the United States and encompasses over 500,000 square miles, flowing 2,341 miles from its headwaters in western Montana to where it joins the Mississippi River, at St. Louis, Missouri. It is home to thousands of fish, wildlife, and plants, while providing unlimited recreational opportunities for its visitors. Visitors can also experience scenic bluffs, forests, grasslands, and traditional rural lifestyles critical to the local communities.

Niobrara Confluence

The Niobrara Confluence segment between Fort Randall Dam and Lewis and Clark Lake is one of the last portions of the middle Missouri River that remains unchannelized, relatively free-flowing, and undeveloped. This area of the Missouri River's main channel in the old, wider river valley contains important habitat for at least 60 native and 26 sport fish. In addition, the riparian woodlands and island complexes are important for approximately 25 year-round bird species and 115 species of migratory birds, including piping plovers, least terns, and bald eagles.

Ponca Bluffs

The Ponca Bluffs segment between Gavins Point Dam and Sioux City is a diverse, relatively unaltered riverine/floodplain ecosystem characterized by a main channel, braided channels, wooded riparian corridor, pools, chutes, sloughs, islands, sandbars, backwater areas, wetlands, natural floodplain and upland forest communities, pastureland, and croplands. This area also supports a wide variety of wildlife and fisheries resources similar to those found in the Niobrara Confluence segment.

The Concept

We are proposing to work with willing landowners to conserve valuable recreational, natural, scenic, and historical resources. By combining agency resources and working together with other conservation efforts like the Natural Resource Conservation Service's Wetland Reserve Program, we hope to maintain a legacy for future generations. Our personnel and technical resources in each agency's various programs will help improve the delivery of actions outlined in this plan. The concept of this project is to combine agency resources to enhance conservation; enhance recreation; increase tourism; instill new money into local economies; improve quality of life through healthy air, water, and ecosystems; and increase the appreciation and awareness of the natural resources.

This would be achieved by purchasing conservation easements from willing landowners or the use of fee-title acquisition. Fee-title acquisition could be used when rehabilitation is needed to improve the ecological function of the river by allowing a more natural meander, or when extensive public access is anticipated.

Conservation Easements

We recognize that the preservation of working landscapes such as farms and rangeland through easement acquisition is more cost effective, socially acceptable, and politically popular than fee title acquisition, while still effectively promoting the preservation of unfragmented quality habitat. Conservation easements provide a unique tool for agencies to use in partnership with willing landowners. Easements allow the land to stay in private ownership and on the local tax rolls while still providing the greater American public lifelong conservation value. The alternatives outlined in the plan (B–C) allow for a greater use of easements (80 percent) over more traditional fee title acquisition. With easement acquisitions, landowners will be compensated for perpetually conserving their property in a native state, and in turn will have funds available to use for investment in the local communities.

The purpose of the easements would be to promote native grasses, shrubs, and trees; eliminate or reduce invasive species such as eastern red cedars; and protect culturally or tribally significant sites. All easement conditions would be mutually agreed upon by the landowner and us.

Priorities

We developed this draft conservation plan by focusing on the overall ecological function of the Missouri River. We identified areas that are important for native fish and wildlife species such as bald eagles and pallid sturgeon. In addition, we prioritized areas that increase access to the river, conserve scenic areas such as chalkstone bluffs, and maintain historically significant sites.

Public Availability of Comments

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

Authorities

The FWS and NPS are furnishing this notice in compliance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997; the National Park Service Organic Act of 1916 (16 U.S.C. l et seq.), and amendments thereto, and the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and its implementing regulations.

Dated: Feb 21, 2013.

Michael Reynolds,

Midwest Regional Director, National Park Service.

Dated: Feb 26, 2013.

Matt Hogan,

Acting, Regional Director, Mountain Prairie Region, U.S. Fish and Wildlife Service.

[FR Doc. 2013–08105 Filed 4–5–13; 8:45 am]

BILLING CODE 4310–55–4312–51–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO956000 L14200000.BJ0000]

Notice of Filing of Plats of Survey; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Survey; Colorado

SUMMARY: The Bureau of Land Management (BLM) Colorado State Office is publishing this notice to inform the public of the intent to officially file the survey plats listed below and afford a proper period of time to protest this action prior to the plat filing. During this time, the plats will be available for review in the BLM Colorado State Office.

DATES: Unless there are protests of this action, the filing of the plats described in this notice will happen on May 8, 2013.

ADDRESSES: BLM Colorado State Office, Cadastral Survey, 2850 Youngfield Street, Lakewood, Colorado 80215–7093.

FOR FURTHER INFORMATION CONTACT: Randy Bloom, Chief Cadastral Surveyor for Colorado, (303) 239–3856.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information

Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plat, in 2 sheets, and field notes of the dependent resurvey and survey in Township 27 South, Range 73 West, Sixth Principal Meridian, Colorado, were accepted March 6, 2013.

The plat, in 2 sheets, and field notes of the dependent resurvey and metes-and-bounds survey, Great Sand Dunes National Park, in Townships 39 and 40 North, Ranges 12 and 13 East, New Mexico Principal Meridian, Colorado, were accepted on March 6, 2013.

The plat and field notes of the metes-and-bounds survey of Tract 38 in unsurveyed sections 15, 16, 21, and 22, in Township 48 North, Range 6 East, New Mexico Principal Meridian, Colorado, were accepted on March 13, 2013.

The plat and field notes of the dependent resurvey and survey in Township 34 North, Range 9 West, North of the Ute Line, New Mexico Principal Meridian, were accepted on March 14, 2013.

The plat and field notes of the dependent resurvey and survey in Township 6 North, Range 97 West, Sixth Principal Meridian, were accepted on March 26, 2013.

Randy Bloom,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 2013–08049 Filed 4–5–13; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–CONC–11968 PPWOBSADC0, PPMVSCS1Y.Y00000]

Privacy Act of 1974, as Amended; Notice of a New System of Records

AGENCY: National Park Service, Interior.

ACTION: Notice of creation of a new system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, the Department of the Interior (DOI) is issuing a public notice of its intent to create the National Park Service (NPS) ''Commercial Use Authorization (CUA) System—NPS–24'' system of records. The system allows NPS employees to manage the NPS Commercial Services Program allowing commercial uses and to monitor resources within a unit of the National Park System. The system of records will also allow the NPS to provide to the public the description and contact information for businesses that provide services in national parks.

DATES: Comments must be received by May 20, 2013.

ADDRESSES: Any person interested in commenting on this notice may do so by: submitting comments in writing to Felix Uribe, National Park Service Privacy Act Officer, 1849 C Street NW., Mail Stop 2550, Washington, DC 20240; hand-delivering comments to Felix Uribe, National Park Service Privacy Act Officer, 1201 Eye Street NW., Washington, DC 20005; or emailing comments to *Felix_Uribe@nps.gov.*

FOR FURTHER INFORMATION CONTACT: Chief, Commercial Services Program, NPS, 1849 C Street NW., Mail Stop 2410, Washington, DC 20240; or by telephone at (202) 513–7156.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of the Interior (DOI), National Park Service (NPS) maintains the ''Commercial Use Authorization (CUA) System—NPS–24'' system of records. The purpose of this system is to manage the NPS Commercial Services Program allowing commercial uses within a unit of the National Park System, and to monitor resources that are or may be affected by the authorized commercial uses. The system will also be used to protect the natural and cultural resources of the national parks, and will provide the public the description and contact information for businesses that provide services in national parks.

The system will be effective as proposed at the end of the comment period (the comment period will end 40 days after the publication of this notice in the **Federal Register**), unless comments are received which would require a contrary determination. DOI will publish a revised notice if changes are made based upon a review of the comments received.

II. Privacy Act

The Privacy Act of 1974, as amended, embodies fair information principles in a statutory framework governing the means by which Federal Agencies collect, maintain, use, and disseminate individuals' personal information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act defines an individual as a U.S. citizen or lawful permanent resident. As a matter of policy, DOI extends administrative Privacy Act protections to all individuals. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DOI by complying with DOI Privacy Act regulations, 43 CFR part 2.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses of their records, and to assist individuals to more easily find such records within the agency. Below is the description of the NPS ''Commercial Use Authorization (CUA) System—NPS–24'' system of records.

In accordance with 5 U.S.C. 552a(r), DOI has provided a report of this system of records to the Office of Management and Budget and to Congress.

III. Public Disclosure

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

Dated: March 19, 2013.

Felix Uribe,

Privacy Act Officer, National Park Service.

SYSTEM NAME:

Commercial Use Authorization (CUA) System—NPS–24.

SYSTEM LOCATION:

This system is located at the Commercial Services Program, NPS, 1201 Eye Street NW., 11th Floor, Washington, DC 20005. Records may also be located at the NPS regional and field offices responsible for issuing the commercial use authorization.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system include applicants of commercial use authorizations, and holders of commercial use authorizations for the purpose of conducting business within

units of the National Park System. This system contains records concerning corporations and other business entities, which are not subject to the Privacy Act. However, records pertaining to individuals acting on behalf of corporations and other business entities may reflect personal information.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains: (1) Applications for commercial use authorization and may include name, address, telephone number, email address, social security number, business name, service offered by business, CUA number, employer's identification number, state business license number, person's position title; information on a business operated vehicle including make of vehicle, make of aircraft, make of watercraft, model, year, tail number, length; and data describing an event involving any conviction or fines for violations of Federal, state, or local law including date of violation, name of business or person charged, law or regulation violated and Federal, state, or municipality agency that initiated the charges, and reportable injuries; and (2) financial and operating reports on operations within units of the National Park System containing name, address, telephone number, internet address, and email address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

16 U.S.C. 5966, Commercial Use Authorizations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The purposes of the system are (1) to assist NPS employees in managing the NPS Commercial Services program allowing commercial uses within a unit of the National Park System to ensure that business activities are conducted in a manner that complies with Federal laws and regulations; (2) to monitor resources that are or may be affected by the authorized commercial uses within a unit of the National Park System; (3) to track applicants and holders of commercial use authorizations who are planning to conduct or are conducting business within units of the National Park System; and (4) to provide to the public the description and contact information for businesses that provide services in national parks. In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, disclosures outside DOI may be made as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) (a) To any of the following entities or individuals, when the circumstances set forth in paragraph (b) are met:

(i) The U.S. Department of Justice (DOJ);

(ii) A court or an adjudicative or other administrative body;

(iii) A party in litigation before a court or an adjudicative or other administrative body; or

(iv) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(b) When:

(i) One of the following is a party to the proceeding or has an interest in the proceeding:

(A) DOI or any component of DOI;

(B) Any other Federal agency appearing before the Office of Hearings and Appeals;

(C) Any DOI employee acting in his or her official capacity;

(D) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(E) The United States, when DOJ determines that DOI is likely to be affected by the proceeding; and

(ii) DOI deems the disclosure to be:

(A) Relevant and necessary to the proceeding; and

(B) Compatible with the purpose for which the records were compiled.

(2) To a congressional office in response to a written inquiry that an individual covered by the system, or the heir of such individual if the covered individual is deceased, has made to the office.

(3) To any criminal, civil, or regulatory law enforcement authority (whether Federal, state, territorial, local, tribal or foreign) when a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature, and the disclosure is compatible with the purpose for which the records were compiled.

(4) To an official of another Federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files or to enable that agency to respond to an inquiry by the individual to whom the record pertains.

(5) To Federal, state, territorial, local, tribal, or foreign agencies that have requested information relevant or necessary to the hiring, firing or retention of an employee or contractor, or the issuance of a security clearance, license, contract, grant or other benefit, when the disclosure is compatible with the purpose for which the records were compiled.

(6) To representatives of the National Archives and Records Administration to conduct records management inspections under the authority of 44 U.S.C. 2904 and 2906.

(7) To state and local governments and tribal organizations to provide information needed in response to court order and/or discovery purposes related to litigation, when the disclosure is compatible with the purpose for which the records were compiled.

(8) To an expert, consultant, or contractor (including employees of the contractor) of DOI that performs services requiring access to these records on DOI's behalf to carry out the purposes of the system.

(9) To appropriate agencies, entities, and persons when:

(a) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; and

(b) DOI has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interest, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DOI or another agency or entity) that rely upon the compromised information; and

(c) The disclosure is made to such agencies, entities and persons who are reasonably necessary to assist in connection with DOI efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(10) To the Office of Management and Budget (OMB) during the coordination and clearance process in connection with legislative affairs as mandated by OMB Circular A–19.

(11) To the Department of the Treasury to recover debts owed to the United States.

(12) To the news media when the disclosure is compatible with the purpose for which the records were compiled.

(13) To a consumer reporting agency if the disclosure requirements of the Debt Collection Act, as outlined at 31 U.S.C. 3711(e)(1), have been met.

(14) To Federal, state and local governments, tribal organizations, and members of the general public upon request for names, addresses and phone numbers of CUA holders conducting business within units of the National Park System for the purpose of informing the public of the availability of the services offered by the CUA holder.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are contained in file folders stored within filing cabinets. Electronic records are maintained in computers, computer databases, email, and electronic media such as removable drives, magnetic disk, diskette, and computer tapes.

RETRIEVABILITY:

Records in this system are retrieved by various fields including the name of CUA holder, by the service offered, CUA number or keyword search.

SAFEGUARDS:

The records contained in this system are safeguarded in accordance with 43 CFR 2.226 and other applicable security rules and policies. Paper records are maintained in locked file cabinets located in secured rooms or DOI facilities.

Access to DOI networks and records in the CUA system requires a valid username and password, and is limited to DOI personnel who have a need to know the information for the performance of their official duties. Computers and storage media are encrypted in accordance with DOI security policy. Computers containing files are password protected to restrict unauthorized access. The computer servers in which electronic records are stored are located in secured DOI facilities. Personnel authorized to access systems must complete all Security, Privacy, and Records Management training and sign the DOI Rules of Behavior.

RETENTION AND DISPOSAL:

Records in this system are retained in accordance with the National Park Service Records Schedule for Commercial Visitor Services, which has been approved by the National Archives and Records Administration (Job No. N1–79–08–4). The disposition is temporary. Retention of records that document substantive decisions, actions, and activities relating to closure, concessions, fees, licensing, labor, performance, and other commercial activities are destroyed or deleted 15 years after closure.

Paper records are disposed of by shredding or pulping, and records contained on electronic media are degaussed or erased in accordance with 384 Departmental Manual 1.

SYSTEM MANAGER AND ADDRESS:

Chief, Commercial Services Program, NPS, Department of the Interior, 1849 C Street NW., Mail Stop 2410, Washington, DC 20240.

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on himself or herself should send a signed, written inquiry to the System Manager identified above. The request envelope and letter should both be clearly marked ''PRIVACY ACT INQUIRY.'' A request for notification must meet the requirements of 43 CFR 2.235.

RECORDS ACCESS PROCEDURES:

An individual requesting records on himself or herself should send a signed, written inquiry to the System Manager identified above. The request should describe the records sought as specifically as possible. The request envelope and letter should both be clearly marked ''PRIVACY ACT REQUEST FOR ACCESS.'' A request for access must meet the requirements of 43 CFR 2.238.

CONTESTING RECORDS PROCEDURES:

An individual requesting corrections or the removal of material from his or her records should send a signed, written request to the System Manager identified above. A request for corrections or removal must meet the requirements of 43 CFR 2.246.

RECORD SOURCE CATEGORIES:

Records in the CUA system are obtained from (1) Applicants of CUAs; and (2) holders of CUAs.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2013–08028 Filed 4–5–13; 8:45 am]

BILLING CODE 4312–53–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–830]

Certain Dimmable Compact Fluorescent Lamps and Products Containing Same; Notice of Request for Statements on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge has issued a Final Initial Determination and Recommended Determination on Remedy and Bonding in the above-captioned investigation. The Commission is soliciting comments on public interest issues raised by the recommended relief, specifically a limited exclusion order against certain infringing dimmable compact fluorescent lamps and products containing same, imported by Technical Consumer Products, Inc. of Aurora, Ohio; Shanghai Qiangling Electronics Co., Ltd. of Shanghai, China; Zhejiang Qiang Ling Electronic Co. Ltd. of Zhenjiang, China (collectively, ''TCP'') and U Lighting America Inc. of San Jose, California (''ULA'').

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2532. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that if the Commission finds a violation it shall exclude the articles concerned from the United States:

> unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is interested in further development of the record on the public interest in these investigations. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's Recommended Determination on Remedy and Bonding issued in this investigation on March 1, 2013. Comments should address whether issuance of a limited exclusion order in

this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the recommended orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the recommended exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the limited exclusion order would impact consumers in the United States.

Written submissions must be filed no later than by close of business on May 3, 2013.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 830'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary, (202) 205–2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with the any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50).

Issued: April 3, 2013.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–08076 Filed 4–5–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act (''CAA'')

On March 28, 2013, the Department of Justice lodged a proposed Consent Decree (''Decree'') with the United States District Court for the Eastern District of Virginia in the lawsuit entitled *United States and Commonwealth of Virginia* v. *Honeywell Resins & Chemicals LLC,* Civil Action No. 3:13CV193.

In this action the United States and the Commonwealth of Virginia filed a complaint against Honeywell Resins & Chemicals LLC (''Honeywell'' or ''Defendant'') seeking injunctive relief and civil penalties under Section 113(b) of the Clean Air Act (''CAA'' or ''the Act''), 42 U.S.C. 7413(b) and Virginia State Air Pollution Control Law, Virginia Code § 10.1–1300 *et seq.,* and attendant regulations, for the Defendant's alleged violations at the chemical manufacturing facility operated by Honeywell (''Honeywell Plant'' or ''Facility'') located in Hopewell, Virginia. The Defendant operated and/or continues to operate the Facility in violation of various provisions which include failing to meet certain emission limits and operating parameters and failing to comply with certain requirements for testing, monitoring, recordkeeping and reporting. The Consent Decree requires Honeywell to implement enhanced leak detection and repair protocols, conduct a third-party audit to address benzene waste emissions, and install pollution control equipment to control nitrogen oxide emissions from the Facility. The Decree also requires the Defendant to pay the sum of $1.5 million dollars cash, including interest, to the United States as a civil penalty and $1.5 million dollars cash, including interest, to the Commonwealth as a civil penalty.

The publication of this notice opens a period for public comment on the Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Honeywell Resins & Chemicals LLC,* D.J. Ref. No. 90–5–2–1–09611. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email ...	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.justice.gov/enrd/Consent_Decrees.htm.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $23.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–07997 Filed 4–5–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On April 1, 2013, the Department of Justice lodged a proposed consent decree with the United States District Court for the Central District of Illinois in the lawsuit entitled *United States* v. *Dominion Energy Inc., Dominion Energy Brayton Point LLC, and Kincaid Generation LLC,* Civ. No. 13–cv–3086 (C.D. Ill.).

In this civil enforcement action under the federal Clean Air Act, the United States alleges that Defendants failed to comply with certain requirements of the Act intended to protect air quality. The complaint seeks injunctive relief and

civil penalties for violations of the Prevention of Significant Deterioration (''PSD'') and Title V provisions of the Clean Air Act, 42 U.S.C. 7470–92 and 42 U.S.C. 7661a–76661f, and related state and federal implementing regulations. The complaint alleges that Defendants failed to obtain appropriate permits and failed to install and operate required pollution control devices to reduce emissions of various air pollutants at the Kincaid Power Station, a coal-fired power plant in Kincaid, Illinois.

The proposed consent decree would resolve past Clean Air Act violations and would require Defendants to reduce harmful emissions of sulfur dioxide (''SO_2''), nitrogen oxides (''NO_X''), and particular matter (''PM'') at the Kincaid Power Station, as well as the Brayton Point Power Station, a coal-fired power plant located in Somerset, Massachusetts. The reductions would be achieved through emission control requirements and limitations specified by the proposed consent decree, including installation and operation of pollution controls and annual emission caps. In addition, the proposed consent makes permanent the retirement of the State Line Power Station, a recently shut down coal-fired power plant in Hammond, Indiana. Defendants will also spend $9.75 million to fund environmental mitigation projects that will further reduce emissions and benefit communities adversely affected by pollution from its plants, and pay a civil penalty of $3.4 million. Defendants recently announced their intention to sell the Kincaid and Brayton Point Power Stations to a subsidiary of Energy Capital Partners, a subsidiary of which, Equipower Resources, also owns and operates several power plants in the Northeast. The proposed consent decree provides a process for any such new owner to be substituted as a party to the consent decree.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Dominion Energy Inc., Dominion Energy Brayton Point LLC, and Kincaid Generation LLC,* Civ. No. 13–cv–3086 (C.D. Ill.), D.J. Ref. No. 90–5–2–1–09860. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email ...	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed 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 proposed 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 $24.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–08077 Filed 4–5–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Network Centric Operations Industry Consortium, Inc.

Notice is hereby given that, on March 15, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Network Centric Operations Industry Consortium, Inc. (''NCOIC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, DCN, Paris, FRANCE; MilSOFT ICT–Bilisim Iletisim Teknolojileri A.S., Ankara, TURKEY; and Software Engineering Institute/CMU, Pittsburgh, PA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NCOIC intends to file additional written notifications disclosing all changes in membership.

On November 19, 2004, NCOIC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 2, 2005 (70 FR 5486).

The last notification was filed with the Department on September 25, 2012. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 18, 2012 (77 FR 64128).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–08052 Filed 4–5–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Extension of Information Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Labor-Management Standards (OLMS) of the Department of Labor (Department) is soliciting comments concerning the proposed extension of the collection of information requirements of Labor Organization and Auxiliary Reports. A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before June 7, 2013.

ADDRESSES: Andrew R. Davis, Chief of the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–5609, Washington, DC 20210, *olms-*

public@dol.gov, (202) 693–0123 (this is not a toll-free number), (800) 877–8339 (TTY/TDD).

Please use only one method of transmission (mail or Email) to submit comments or to request a copy of this information collection and its supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden.

SUPPLEMENTARY INFORMATION:

I. Background

Congress enacted the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), to provide for the disclosure of information on the financial transactions and administrative practices of labor organizations. The statute also provides, under certain circumstances, for reporting by labor organization officers and employees, employers, labor relations consultants, and surety companies. Section 208 of the LMRDA authorizes the Secretary to issue rules and regulations prescribing the form of the required reports. The reporting provisions were devised to implement a basic tenet of the LMRDA: the guarantee of democratic procedures and safeguards within labor organizations that are designed to protect the basic rights of union members. Section 205 of the LMRDA provides that the reports are public information.

II. Review Focus

The Department is particularly interested in comments which:

* 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 submissions of responses.

III. Current Actions

The Department seeks extension of the current approval to collect this information. An extension is necessary because the LMRDA explicitly requires the reporting and establishes the frequency of the required filings. The information collected by OLMS is used by union members to help self-govern their unions, by workers making decisions regarding their collective bargaining rights, by the general public, and as research material for both outside researchers and within the Department. The information is also used to assist the Department and other government agencies in detecting improper practices on the part of labor organizations, their officers and/or representatives, and is used by Congress in oversight and legislative functions.

The total burden for the Labor Organization and Auxiliary Reports information collection is summarized as follows:

Type of Review: Extension.

Agency: DOL–OLMS.

Title of Collection: Labor Organization and Auxiliary Reports.

OMB Control Number: 1245–0003.

Affected Public: Private Sector—businesses or other for-profits, farms, not-for-profit institutions, and individuals or households.

Total Estimated Number of Responses: 31,499.

Total Estimated Annual Burden Hours: 4,582,111.

Total Estimated Annual Other Costs Burden: $0.

Comments submitted in response to this notice will be summarized and/or included in the request for the Office of Management and Budget (OMB) approval of the information collection request; they will also become a matter of public record. The Department notes that it has a pending rulemaking concerning two of the reports included in the Labor Organization and Auxiliary Reports information collection: the Form LM–10 Employer Report and the Form LM–20 Agreement and Activities Report filed by labor relations consultants. See 76 FR 37292. The Department received comments on those estimates during the rulemaking, and it will respond to such comments in any final rule issued, as well as in any separate request for amendment to the information collection submitted to OMB in the context of that rulemaking.

Dated: April 2, 2013.

Andrew R. Davis,

Chief of the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor.

[FR Doc. 2013–08050 Filed 4–5–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0140]

Proposed Collection; Comment Request; High-Voltage Continuous Mining Machines Standards for Underground Coal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: 60-Day Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to assure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: All comments must be postmarked or received by midnight Eastern Standard Time on June 7, 2013.

ADDRESSES: Comments concerning the information collection requirements of this notice must be clearly identified with ''OMB 1219–0140'' and sent to the Mine Safety and Health Administration (MSHA). Comments may be sent by any of the methods listed below.

* *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments for docket number [MSHA–2013–0007].
* *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, 21st floor, Room 2350, Arlington, VA 22209–3939.

FOR FURTHER INFORMATION CONTACT: Sheila McConnell, Deputy Director, Office of Standards, Regulations, and Variances, MSHA, at *McConnell.Sheila.A@dol.gov* (email); 202–693–9440 (voice); or 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

This information collection maintains the safe use of high-voltage continuous mining machines in underground coal mines by requiring records of testing, examination and maintenance on machines to reduce fire, electrical shock, ignition and operation hazards.

II. Desired Focus of Comments

The Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to high-voltage continuous mining machine standards for underground coal mines. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;
- Evaluate the accuracy of the MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Address the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submissions of responses), to minimize the burden of the collection of information on those who are to respond.

The public may examine publicly available documents, including the public comment version of the supporting statement, at MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, VA 22209–3939. OMB clearance requests are available on MSHA's Web site at *http://www.msha.gov* under ''**Federal Register** Documents'' on the right side of the screen by selecting ''New and Existing Information Collections and Supporting Statements''. The document will be available on MSHA's Web site for 60 days after the publication date of this notice. Comments submitted in writing or in electronic form will be made available for public inspection on regulations.gov. Because comments will not be edited to remove any identifying or contact information, MSHA cautions the commenter against including any information in the submission that should not be publicly disclosed. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

The information obtained from mine operators is used by MSHA during inspections to determine compliance with safety and health standards. MSHA has updated the data in respect to the number of respondents and responses, as well as the total burden hours and burden costs supporting this information collection request.

MSHA does not intend to publish the results from this information collection and is not seeking approval to either display or not display the expiration date for the OMB approval of this information collection.

There are no certification exceptions identified with this information collection and the collection of this information does not employ statistical methods.

Summary

Type of Review: Revision of a currently approved information collection.

Agency: Mine Safety and Health Administration.

Title: High-Voltage Continuous Mining Machines Standards for Underground Coal Mines.

OMB Number: 1219–0140.

Affected Public: Business or other for-profit.

Cite/Reference/Form/etc.: 30 CFR 75.829, 75.831, and 75.832.

Total Number of Respondents: 5.

Frequency: Various.

Total Number of Responses: 2,980.

Total Burden Hours: 384 hours.

Total Other Annual Cost Burden: $0.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Authority: 44 U.S.C. 3506(c)(2)(A).

Dated: April 2, 2013.

George F. Triebsch,

Certifying Officer.

[FR Doc. 2013–08031 Filed 4–5–13; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Department of Energy Facilities Covered Under the Energy Employees Occupational Illness Compensation Program Act of 2000, as Amended

AGENCY: Office of Workers' Compensation Programs, Labor.

ACTION: Notice of revision of listing of covered Department of Energy facilities.

SUMMARY: The Office of Workers' Compensation Programs (OWCP) is publishing a list of Department of Energy (DOE) facilities covered under the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (EEOICPA). This notice revises and republishes the listing of DOE facilities that was last published by OWCP on March 6, 2012 (77 FR 13360) to include an additional determination made on this subject through April 5, 2013.

FOR FURTHER INFORMATION CONTACT: Rachel P. Leiton, Director, Division of Energy Employees Occupational Illness Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, Room C–3321, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: 202–693–0081 (this is not a toll-free number).

ADDRESSES: OWCP welcomes comments regarding this list. Individuals who wish to suggest changes to this list may provide information to OWCP at the following address: U.S. Department of Labor, Office of Workers' Compensation Programs, Division of Energy Employees Occupational Illness Compensation, Room C–3321, 200 Constitution Avenue NW., Washington, DC 20210. You may also suggest changes to this list by email at DEEOIC-Public@dol.gov. You should include ''DOE facilities list'' in the subject line of any email containing comments on this list.

SUPPLEMENTARY INFORMATION:

I. Background

The Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (42 U.S.C. 7384 *et seq.*), was originally enacted on October 30, 2000, and the primary responsibility for administering EEOICPA was assigned to the Department of Labor (DOL) by Executive Order 13179 (65 FR 77487). In section 2(c)(vii) of that Executive Order, DOE was directed to publish a list in the **Federal Register** of Atomic Weapons Employer (AWE) facilities, DOE facilities, and facilities owned and operated by a Beryllium Vendor (as those terms are defined in sections 73841(5), 73841(12) and 73841(6) of EEOICPA, respectively). Pursuant to this direction, DOE published a list of these three types of facilities covered under EEOICPA on January 17, 2001 (66 FR 4003), and subsequently revised and republished the entire list on June 11, 2001 (66 FR 31218), December 27, 2002 (67 FR 79068), July 21, 2003 (68 FR 43095) and August 23, 2004 (69 FR 51825). In subsequent notices published on November 30, 2005 (70 FR 71815), June 28, 2007 (72 FR 35448), April 9, 2009 (74 FR 16191), August 3, 2010 (75 FR 45608), May 26, 2011 (76 FR 30695), February 6, 2012 (77 FR 5781) and February 11, 2013 (78 FR 9678), DOE further revised the August 23, 2004 list by formally removing a total of 16 AWE

facilities without republishing the list in its entirety.

Following the amendments to EEOICPA that were enacted as subtitle E of Title XXXI of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Public Law 108–375, 118 Stat. 1811, 2178 (October 28, 2004), OWCP promulgated final regulations governing its expanded responsibilities under EEOICPA on December 29, 2006 (71 FR 78520). One of those regulations, 20 CFR 30.5(x)(2), indicates that OWCP has adopted the list of DOE facilities that was published by DOE on August 23, 2004, and notes that OWCP ''will periodically update this list as it deems appropriate in its sole discretion by publishing a revised list of covered [DOE] facilities in the **Federal Register**.'' In making these updates, § 30.5(x)(1) specifies that the Director of OWCP is solely responsible for determining if a particular work site under consideration meets the statutory definition of a *Department of Energy facility*. This sole responsibility is derived from the grant of primary authority to DOL to administer the EEOICPA claims process contained in section 2(a)(i) of Executive Order 13179.

II. Purpose

Since OWCP last published a notice listing all DOE facilities covered under EEOICPA in the March 6, 2012 **Federal Register,** the Director of OWCP has determined that the Adrian Facility, located at 1450 E. Beecher Street in Adrian, Michigan, meets the statutory definition of a *Department of Energy facility* for the purposes of claims filed under EEOICPA. This determination has been memorialized in the two updated lists of DOE facilities published by OWCP today, and is based on the finding that the Bridgeport Brass Company was a DOE contractor that performed operations at that location for the Atomic Energy Commission.

By updating the two lists found below, OWCP is presenting the public with the most current listing of DOE facilities in order to assist potential claimants and their families. OWCP is continuing its efforts in this area as it adjudicates claims filed under EEOICPA, and further revisions of these lists should be expected. Although DOE maintains a Web site (*http://www.hss.energy.gov/healthsafety/fwsp/advocacy/faclist/findfacility.cfm*) that provides information on AWE facilities, Beryllium Vendor facilities and DOE facilities to the public, the information on that Web site regarding DOE facilities should not be relied upon as it may not be up to date, nor is it binding on OWCP's adjudication of claims filed under EEOICPA. Instead, OWCP is solely authorized to give the public notice of the Director's determinations regarding DOE facilities.

III. Introduction to the Lists

The five complete lists previously published by DOE included all three types of work sites described in Executive Order 13179, *i.e.,* AWE facilities, Beryllium Vendor facilities, and DOE facilities. On the other hand, the lists published on June 23, 2009, November 24, 2010, March 6, 2012 and again today by OWCP only include work sites that meet the definition of a *Department of Energy facility,* because the authority to designate both AWE facilities and Beryllium Vendor facilities has been granted to DOE. However, since some work sites can meet the definition of more than just one type of covered work site during either the same or differing time periods, simply presenting one list of DOE facilities (without also differentiating among them in some easily understood fashion) could lead the reader to wrongly conclude that a listed work site has always been a DOE facility when, in fact, it only had that status during a brief period. To lessen the potential for this type of misunderstanding, OWCP has decided to continue its practice of presenting two separate lists of DOE facilities.

The first list consists exclusively of work sites that have only been DOE facilities for purposes of coverage under EEOICPA, and the second list consists of work sites that have also been at least one other type of covered work site in addition to a DOE facility. To see what other types of covered work sites the DOE facilities appearing in the second list are or have been, readers can refer to the **Federal Register** notices published by DOE on August 23, 2004 (69 FR 51825), November 30, 2005 (70 FR 71815), June 28, 2007 (72 FR 35448), April 9, 2009 (74 FR 16191), August 3, 2010 (75 FR 45608), May 26, 2011 (76 FR 30695), February 6, 2012 (77 FR 5781) and February 11, 2013 (78 FR 9678). Since covered time periods for a particular DOE facility are statutorily limited to periods during which ''operations'' are or were performed by or on behalf of DOE (or its predecessor agencies) at that DOE facility, *and* when DOE (or its predecessor agencies) either had a proprietary interest in the facility or had entered into a particular type of contract with an entity regarding the facility, the lists below include date ranges during which covered employment at each work site could have been performed. These date ranges, however, often do not reflect the exact day and month that a work site either acquired or lost its status as a DOE facility, and are not considered binding on OWCP in its adjudication of individual claims under EEOICPA. Rather, they are presented in this notice for the sole purpose of informing the public of the current results of OWCP's research into the operational histories of these work sites, some of which extend back to the establishment of the Manhattan Engineer District of the U.S. Army Corps of Engineers on August 13, 1942. OWCP's efforts in this area are continuing, and it expects that the date ranges included in this notice will change with the publication of future notices.

DOE facilities appearing on the lists that have undergone environmental remediation at the direction of or directly by DOE are identified by the following symbol—†—after the date range during which such environmental remediation occurred. During those periods, only the work of employees of DOE contractors who actually performed the remediation is ''covered work'' under EEOICPA.

List 1: Work Sites That Are/Were DOE Facilities Exclusively

Facility name	Location	Dates
Amchitka Island Nuclear Explosion Site	Amchitka Island	1965–9/1973; 5/25/2001–10/13/2001 †.
Project Chariot Site	Cape Thompson	1962; 1993 †.
California DOE Facilities		
Area IV of the Santa Susanna Field Laboratory	Ventura County	1955–1988; 1988–Present †.
Canoga Complex	Los Angeles County	1955–1960.
De Soto Complex	Los Angeles County	1959–1995; 1998 †.
Downey Facility	Los Angeles County	1948–1955.

Facility name	Location	Dates
High Energy Rate Forging (HERF) Facility	Oxnard	1984–6/30/1997.
Laboratory for Energy-Related Health Research, University of California (Davis).	Davis	1958–1989; 1991–Present †.
Laboratory of Biomedical and Environmental Sciences, University of California (Los Angeles).	Los Angeles	1947–Present.
Laboratory of Radiobiology and Environmental Health, University of California (San Francisco).	San Francisco	1951–1999.
Lawrence Berkeley National Laboratory	Berkeley	8/13/1942–Present.
Lawrence Livermore National Laboratory	Livermore	1950–Present.
Sandia National Laboratories, Salton Sea Test Base	Imperial County	1946–1961.
Sandia National Laboratories-Livermore	Livermore	1956–Present.
Stanford Linear Accelerator Center, Stanford University	Palo Alto	1962–Present.
Colorado DOE Facilities		
Grand Junction Operations Office	Grand Junction	8/1943–10/2001; 11/2001–Present †.
Project Rio Blanco Nuclear Explosion Site	Rifle	1973–1976.
Project Rulison Nuclear Explosion Site	Grand Valley	1969–1971; 1972–1978 †.
Rocky Flats Plant	Golden	1951–2006.
Florida DOE Facilities		
Pinellas Plant	Clearwater	1957–1997.
Hawaii DOE Facilities		
Kauai Test Facility, U.S. Navy Pacific Missile Range	Kauai	1962–Present.
Idaho DOE Facilities		
Argonne National Laboratory-West	Scoville	1949–2005.
Idaho National Laboratory	Scoville	1949–Present.
Illinois DOE Facilities		
Argonne National Laboratory-East	Argonne	1946–Present.
Fermi National Accelerator Laboratory	Batavia	1972–Present.
Indiana DOE Facilities		
Dana Heavy Water Plant	Dana	1943–5/1957.
Iowa DOE Facilities		
Ames Laboratory, Iowa State University	Ames	8/13/1942–Present.
Iowa Ordnance Plant (Line 1 and Associated Activities)	Burlington	1947–1974.
Kentucky DOE Facilities		
Paducah Gaseous Diffusion Plant	Paducah	1951–7/28/98; 7/29/98–Present †.
Massachusetts DOE Facilities		
Winchester Engineering and Analytical Center	Winchester	1952–1961.
Michigan DOE Facilities		
Adrian Facility	Adrian	5/25/54–1962; 1995 †.
Minnesota DOE Facilities		
Elk River Reactor	Elk River	1962–1968.
Mississippi DOE Facilities		
Salmon Nuclear Explosion Site	Hattiesburg	1964–6/29/1972.
Missouri DOE Facilities		
Kansas City Plant	Kansas City	11/5/1948–Present.
Mallinckrodt Chemical Co., Destrehan Street Facility	St. Louis	8/13/1942–1962; 1995 †.
St. Louis Airport Storage Site (SLAPS)	St. Louis	1/3/1947–1973; 1984–1998.
Weldon Spring Plant	Weldon Spring	1955–1966; 10/1/1985–2002 †.
Weldon Spring Quarry	Weldon Spring	1958–1966; 1967–10/2002 †.

Facility name	Location	Dates
Weldon Spring Raffinate Pits	Weldon Spring	1955–1966; 1967–2002 †.
Nebraska DOE Facilities		
Hallam Sodium Graphite Reactor	Hallam	1960–1971.
Nevada DOE Facilities		
Nevada Site Office	North Las Vegas	3/6/1962–Present.
Nevada Test Site	Mercury	1951–Present.
Project Faultless Nuclear Explosion Site	Central Nevada Test Site	1967–1974.
Project Shoal Nuclear Explosion Site	Fallon	1962–1/31/1964.
Tonopah Test Range	Tonopah	1956–Present.
Yucca Mountain Site Characterization Project	Yucca Mountain	1987–Present.
New Jersey DOE Facilities		
Middlesex Sampling Plant	Middlesex	1943–1967; 1980–1982 †.
New Brunswick Laboratory	New Brunswick	1948–1977.
Princeton Plasma Physics Laboratory, James Forrestal Campus of Princeton University.	Princeton	1951–Present.
New Mexico DOE Facilities		
Albuquerque Operations Office	Albuquerque	8/13/1942–Present.
Chupadera Mesa	White Sands Missile Range	1945.
Hangar 481, Kirtland AFB	Albuquerque	3/1/1989–2/29/1996.
Kirtland Operations Office, Kirtland AFB	Albuquerque	1964–Present.
Los Alamos Medical Center	Los Alamos	1952–1963.
Los Alamos National Laboratory	Los Alamos	8/13/1942–Present.
Lovelace Respiratory Research Institute, Kirtland AFB	Albuquerque	1960–Present.
Project Gasbuggy Nuclear Explosion Site	Farmington	2/11/1967–1973; 1978; 1992–Present †.
Project Gnome Nuclear Explosion Site	Carlsbad	7/1/1960–6/1962.
Sandia National Laboratories	Albuquerque	1945–Present.
South Albuquerque Works	Albuquerque	1951–1967.
Trinity Nuclear Explosion Site, Alamogordo Bombing and Gunnery Range.	White Sands Missile Range	1945; 1952 †; 1967 †.
Waste Isolation Pilot Plant	Carlsbad	3/26/1999–Present.
New York DOE Facilities		
Brookhaven National Laboratory	Upton	1947–Present.
Electro Metallurgical Co.	Niagara Falls	8/13/1942–1953.
Environmental Measurements Laboratory	New York	1946–2003.
Lake Ontario Ordnance Works	Niagara County	1944–1997.
Linde Ceramics Plant (Buildings 30, 31, 37 and 38 only)	Tonawanda	11/16/1942–1953; 1988–1992 †; 1996 †.
Peek Street Facility (Knolls Atomic Power Laboratory)	Schenectady	1947–1954.
Sacandaga Facility	Glenville	1947–1953.
SAM Laboratories, Columbia University	New York	8/13/1942–1947.
Separations Process Research Unit (Knolls Atomic Power Laboratory)	Schenectady	1950–1965; 2007–2011 †.
University of Rochester Atomic Energy Project	Rochester	1943–1986.
Ohio DOE Facilities		
Extrusion Plant (Reactive Metals Inc.)	Ashtabula	1962–Present.
Feed Materials Production Center (FMPC)	Fernald	1951–Present.
Dayton Project (Units I, III and IV only)	Dayton and Oakwood	7/14/1943–1950.
Mound Plant	Miamisburg	1947–Present.
Piqua Organic Moderated Reactor	Piqua	1963–1969.
Portsmouth Gaseous Diffusion Plant	Piketon	1952–7/28/98; 7/29/98–Present †.
Oregon DOE Facilities		
Albany Metallurgical Research Center, U.S. Bureau of Mines	Albany	1987–1993 †; 1995–Present.
Pennsylvania DOE Facilities		
Shippingport Atomic Power Plant	Shippingport	1984–1995 †.
Puerto Rico DOE Facilities		
BONUS Reactor Plant	Punta Higuera	1964–1968.

Facility name	Location	Dates
Puerto Rico Nuclear Center	Mayaguez	1957–1976; 1987 †.
South Carolina DOE Facilities		
Savannah River Site	Aiken	1950–Present.
Tennessee DOE Facilities		
Clarksville Modification Center, Ft. Campbell	Clarksville	1949–1967.
Clinton Engineer Works (CEW)	Oak Ridge	1943–1949.
Oak Ridge Gaseous Diffusion Plant (K–25)	Oak Ridge	1943–1987; 1988–Present †.
Oak Ridge Hospital	Oak Ridge	1943–1959.
Oak Ridge Institute for Science Education	Oak Ridge	1946–Present.
Oak Ridge National Laboratory (X–10)	Oak Ridge	1943–Present.
Office of Scientific and Technical Information (OSTI)	Oak Ridge	1957–Present.
S–50 Oak Ridge Thermal Diffusion Plant	Oak Ridge	1944–1951.
Y–12 Plant	Oak Ridge	8/13/1942–Present.
Texas DOE Facilities		
Medina Modification Center	San Antonio	1958–1966.
Pantex Plant	Amarillo	1951–Present.
Virginia DOE Facilities		
Thomas Jefferson National Accelerator Facility	Newport News	1994–Present.
Washington DOE Facilities		
Hanford Engineer Works	Richland	8/13/1942–Present.
Pacific Northwest National Laboratory	Richland	1965–Present.
West Virginia DOE Facilities		
Reduction Pilot Plant	Huntington	1951–1963; 1978–1979.
Wisconsin DOE Facilities		
LaCrosse Boiling Water Reactor	LaCrosse	1967–1969.
Territorial DOE Facilities		
Pacific Proving Ground	Bikini and Enewetak Atolls (now part of the Republic of the Marshall Islands), Johnston Island and Christmas Island.	1946–1962.

List 2: Work Sites That Are/Were DOE Facilities (for the Years Identified in the Last Column Only) and Also Another Type of EEOICPA-Covered Facility

Facility name	Location	Dates
Arizona DOE Facilities		
Ore Buying Station at Globe	Globe	7/1955–1957.
Uranium Mill in Monument Valley	Monument Valley	5/1989–2/1990 †; 9/1992–5/1994 †.
Uranium Mill in Tuba City	Tuba City	1/1985–2/1986 †; 1/1988–4/1990 †.
California DOE Facilities		
General Atomics (Torrey Pines Mesa and Sorrento West)	La Jolla	1996–1999 †.
General Electric Vallecitos	Pleasanton	1998–6/7/2010 †.
Colorado DOE Facilities		
Climax Uranium Mill in Grand Junction	Grand Junction	12/1988–8/1994 †.
Green Sludge Plant in Uravan	Uravan	1943–1945.
New Uranium Mill in Rifle	Rifle	9/1988–9/1989 †; 4/1992–10/1996 †.
Old Uranium Mill in Rifle	Rifle	9/1988–9/1989 †; 4/1992–10/1996 †.

Facility name	Location	Dates
Uranium Mill in Durango	Durango	1948–1953; 10/1986–5/1991 †.
Uranium Mill in Gunnison	Gunnison	9/1991–12/1995 †.
Uranium Mill in Maybell	Maybell	5/1995–9/1998 †.
Uranium Mill in Naturita	Naturita	5/1994–11/1994 †; 6/1996–9/1998 †.
Uranium Mill No. 1 in Slick Rock (East)	Slick Rock	1995–1996 †.
Uranium Mill No. 2 in Slick Rock (West)	Slick Rock	1995–1996 †.
Connecticut DOE Facilities		
Connecticut Aircraft Nuclear Engine Laboratory (CANEL)	Middletown	1958–7/8/1966.
Seymour Specialty Wire	Seymour	1992–1993 †.
Idaho DOE Facilities		
Uranium Mill in Lowman	Lowman	1992 †; 1994–Present.
Illinois DOE Facilities		
General Steel Industries (South Plant)	Granite City	1993 †.
Metallurgical Laboratory, University of Chicago (Eckhart Hall, Jones Laboratory and Ryerson Hall only).	Chicago	1982–1984 †; 1987 †.
National Guard Armory (Washington Park Armory)	Chicago	1987 †.
Massachusetts DOE Facilities		
Chapman Valve Manufacturing Co	Indian Orchard	1995 †.
Hood Building	Cambridge	1946–1963.
Ventron Corporation	Beverly	1986 †; 1996–1997 †.
Missouri DOE Facilities		
Latty Avenue Properties	Hazelwood	1984–1986 †.
New Jersey DOE Facilities		
Du Pont Deepwater Works	Deepwater	1996 †.
Kellex/Pierpont	Jersey City	1979–1980 †.
Middlesex Municipal Landfill	Middlesex	1984 †; 1986 †.
Rare Earths/W.R. Grace	Wayne	1985–1987 †.
New Mexico DOE Facilities		
Ore Buying Station at Grants	Grants	7/1956–1958.
Ore Buying Station at Shiprock	Shiprock	7/1952–1/1954.
Uranium Mill in Ambrosia Lake	Ambrosia Lake	7/1987–4/1989 †; 10/1992–7/1995 †.
Uranium Mill in Shiprock	Shiprock	10/1984–11/1986 †.
New York DOE Facilities		
Baker and Williams Warehouses (Pier 38)	New York	1991–1993 †.
Colonie Interim Storage Site (National Lead Co.)	Colonie	1984–1998 †.
West Valley Demonstration Project	West Valley	1980–Present.
Ohio DOE Facilities		
Alba Craft	Oxford	1994–1995 †.
Associated Aircraft Tool and Manufacturing Co	Fairfield	1994–1995 †.
B & T Metals	Columbus	1996 †.
Baker Brothers	Toledo	1995 †.
Battelle Laboratories—King Avenue	Columbus	1986–2000 †.
Battelle Laboratories—West Jefferson	Columbus	1986–Present †.
Beryllium Production Plant (Brush Luckey Plant)	Luckey	1949–1961; 1992–Present †.
General Electric Co. (Ohio)	Cincinnati/Evendale	1961–6/30/1970.
Herring-Hall Marvin Safe Co.	Hamilton	1994–1995 †.
Oregon DOE Facilities		
Uranium Mill and Disposal Cell in Lakeview	Lakeview	1986–1989 †.
Pennsylvania DOE Facilities		
Aliquippa Forge	Aliquippa	1988 †; 1993–1994 †.
C.H. Schnorr & Company	Springdale	1994 †.

Facility name	Location	Dates
Vitro Manufacturing (Canonsburg)	Canonsburg	1983–1985 †; 1996 †.
South Dakota DOE Facilities		
Ore Buying Station at Edgemont	Edgemont	11/1952–7/12/1956.
Texas DOE Facilities		
Uranium Mill in Falls City	Falls City	1/1992–6/1994 †.
Utah DOE Facilities		
Ore Buying Station at Marysvale	Marysvale	3/1950–1957.
Ore Buying Station at Moab	Moab	5/1954–1960.
Ore Buying Station at Monticello	Monticello	1948–1962.
Ore Buying Station at White Canyon	White Canyon	10/1954–1957.
Uranium Mill in Mexican Hat	Mexican Hat	7/1987–10/1987 †; 9/1992–2/1995 †.
Uranium Mill in Moab (Atlas Site)	Moab	2001–Present.
Uranium Mill in Monticello	Monticello	1948–1960; 1983–2000 †.
Wyoming DOE Facilities		
Ore Buying Station at Crooks Gap	Crooks Gap	12/1956–7/1957.
Ore Buying Station at Riverton	Riverton	3/1955–1957.
Uranium Mill in Converse County (Spook Site)	Converse County	4/1989–9/1989 †.
Uranium Mill in Riverton	Riverton	5/1988–9/1990 †.

† Denotes a period of environmental remediation.

Signed at Washington, DC, this 2nd day of April, 2013.

Gary A. Steinberg,

Acting Director, Office of Workers' Compensation Programs.

[FR Doc. 2013–08075 Filed 4–5–13; 8:45 am]

BILLING CODE 4510–CR–P

LEGAL SERVICES CORPORATION

Sunshine Act Meetings; Amended Notice

This is an amendment to the Sunshine Act meeting notice of the Legal Services Corporation's Institutional Advancement Committee meeting scheduled for April 9, 2013. The notice was submitted on April 2, 2013, for publication in the **Federal Register**. This amendment is being made for the purpose of providing call-in information for the meeting. There are no other changes to the notice.

DATE AND TIME: The Legal Services Corporation's Institutional Advancement Committee will meet telephonically on April 9, 2013. The meeting will commence at 4:00 p.m., Eastern Daylight Time (EDT), and will continue until the conclusion of the Committee's agenda.

LOCATION: John N. Erlenborn Conference Room, Legal Services Corporation Headquarters, 3333 K Street NW., Washington, DC 20007.

PUBLIC OBSERVATION: Members of the public who are unable to attend in person but wish to listen to the public proceedings may do so by following the telephone call-in directions provided below.

CALL-IN DIRECTIONS FOR OPEN SESSIONS:

- Call toll-free number: 1–866–451–4981;
- When prompted, enter the following numeric pass code: 5907707348
- When connected to the call, please immediately ''MUTE'' your telephone.

Members of the public are asked to keep their telephones muted to eliminate background noises. To avoid disrupting the meeting, please refrain from placing the call on hold if doing so will trigger recorded music or other sound. From time to time, the presiding Chair may solicit comments from the public.

STATUS OF MEETING: Open, except that, upon a vote of the Board of Directors, the meeting may be closed to the public to discuss prospective funders for LSC's development activities and 40th anniversary celebration and prospective members for an honorary auxiliary group.

A verbatim written transcript will be made of each closed session meeting of the Institutional Advancement Committee. The transcript of any portion of the closed sessions falling within the relevant provisions of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6) and (9) will not be available for public inspection. A copy of the General Counsel's Certification that, in his opinion, the closings are authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Open

1. Approval of agenda.
2. Discussion of fundraising objectives.
3. Public comment.
4. Consider and act on other business.

Closed

5. Discussion of prospective funders for LSC's development activities and 40th anniversary celebration.
6. Discussion of prospective members for an honorary auxiliary group.
7. Consider and act on adjournment of meeting.

CONTACT PERSON FOR INFORMATION: Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

ACCESSIBILITY: LSC complies with the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals who need other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov,* at least 2 business days in advance of the

meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: April 2, 2013.

Victor M. Fortuno,

Vice President & General Counsel.

[FR Doc. 2013–08147 Filed 4–4–13; 11:15 am]

BILLING CODE 7050–01–P

NATIONAL COUNCIL ON DISABILITY

Sunshine Act Meetings

TIME AND DATES: The Members of the National Council on Disability (NCD) will hold a quarterly meeting on Monday, April 22, 2013, 1:00 p.m.–5:15 p.m. (EDT), and Tuesday, April 23, 2013, 8:30 a.m.–12:00 p.m. Noon (EDT).

PLACE: The meeting will occur at the Access Board Conference Room, 1331 F Street NW., Suite 800, Washington, DC. Interested parties may join the meeting in person or may join by phone in a listening-only capacity (with the exception of the public comment period) using the following call-in number: 1–888–727–7630; passcode 5450168. If asked, the call host's name is Stacey Brown.

MATTERS TO BE CONSIDERED: On Monday afternoon, the Council will receive a presentation from its Policy Development and Program Evaluation Committee regarding a potential policy roadmap for the Council's policy engagement for the remainder of Fiscal Year 2013, Fiscal Year 2014, and Fiscal Year 2015, utilizing a framework of ''investing in independence,'' leading up to the 25th anniversary of the Americans with Disabilities Act (ADA). The meeting on Monday will conclude with a period for public comment. On Tuesday, the Council will receive reports from the Executive Director and the Chairperson as well as an overview of its planned afternoon Congressional Forum on voting access, to be held on Capitol Hill. The Council will then receive public comment specifically focused on how NCD should engage on the United Nations Convention on the Rights of Persons with Disabilities (CRPD). The Council will then receive reports from its standing committees (Audit and Finance Committee regarding the FY15 budget; Governance Committee regarding the NCD strategic plan; Policy Development and Program Evaluation Committee regarding the policy roadmap), followed by a final brief period for public comment.

The times provided below are approximations for when each agenda item is anticipated to be discussed (all times Eastern):

Monday, April 22:

- 1:00–1:15 p.m. Welcome and Introductions
- 1:15–1:30 p.m. Overview of Afternoon Activities
- 1:30–3:30 p.m. Policy Roadmap Discussion
- 3:45–4:45 p.m. Policy Roadmap Discussion continued
- 4:45–5:15 p.m. Public Comment (phone and in-person; all topics)

Tuesday, April 23:

- 8:30–9:30 a.m. Introduction of NCD Members and Staff; Chairperson's Report; Executive Director's Report; Congressional Forum Overview
- 9:30–10:00 a.m. Public Comment (in-person only; limited to how NCD should engage on the United Nations Convention on the Rights of Persons with Disabilities (CRPD))
- 10:15–11:45 a.m. Committee Reports (Audit & Finance; Governance; Policy Development and Program Evaluation)
- 11:45 a.m.–12:00 p.m. Public Comment (phone and in-person; all topics)

PUBLIC COMMENT: NCD will receive public comment by phone and in person during the Council meeting at the following times:

Monday, April 22:

- 4:45–5:15 p.m. Public Comment (phone and in-person; all topics)

Tuesday, April 23:

- 9:30–10:00 a.m. Public Comment (in-person only; limited to how NCD should engage on the United Nations Convention on the Rights of Persons with Disabilities (CRPD))
- 11:45 a.m.–12:00 p.m. Public Comment (phone and in-person; all topics)

Any individuals interested in providing public comment by phone or in-person will be asked to provide their names and their organizational affiliations, if applicable, and to limit their comments to three minutes. Individuals may also provide public comment by sending their comments in writing to Lawrence Carter-Long, Public Affairs Specialist, at *lcarterlong@ncd.gov*, using the subject line of ''Public Comment.''

CONTACT PERSON FOR MORE INFORMATION: Anne Sommers, NCD, 1331 F Street NW., Suite 850, Washington, DC 20004; 202–272–2004 (V), 202–272–2074 (TTY).

ACCOMMODATIONS: A CART streamtext link has been arranged for each day of the board meeting. For Monday, beginning at 1:00 p.m., EDT, the web link to access CART is *http://www.streamtext.net/text.aspx?event=042213ncd100pm.* For Tuesday, beginning at 8:30 a.m., EDT, the web link to access CART is *http://www.streamtext.net/text.aspx?event=042313ncd830am.* Those who plan to attend the meeting in person and require accommodations should notify NCD as soon as possible to allow time to make arrangements.

Please note: To help reduce exposure to fragrances for those with multiple chemical sensitivities, NCD requests that all those attending the meeting in person please refrain from wearing scented personal care products such as perfumes, hairsprays, colognes, and deodorants.

Dated: April 4, 2013.

Julie Carroll,

Interim Executive Director.

[FR Doc. 2013–08202 Filed 4–4–13; 4:15 pm]

BILLING CODE 6820–MA–P

NATIONAL SCIENCE FOUNDATION

Business and Operations Advisory Committee; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Business and Operations Advisory Committee (9556).

Date/Time: April 30, 2013; 1:00 p.m. to 5:30 p.m. (EST).

May 1, 2013; 8:00 a.m. to 12:00 p.m. (EST).

Place: National Science Foundation, 4201 Wilson Boulevard, Stafford I, Room 1235.

Type of Meeting: Open.

Contact Person: Joan Miller, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230 (703) 292–8200.

To help facilitate your entry into the building, contact the individual listed above. Your request to attend this meeting should be received by email (*jlmiller@nsf.gov*) on or prior to April 29, 2013.

Purpose of Meeting: To provide advice concerning issues related to the oversight, integrity, development and enhancement of NSF's business operations.

AGENDA:

April 30, 2013

Welcome/Introductions; BFA/OIRM/CIO Updates; NSF Workforce Challenges/BFA Strategic Priorities—Updates, NSF Strategic Plan—Links to NSF and Employee Performance Plans.

May 1, 2013

Leveling Workload; Virtual Panels and Future of Committee Meetings; Prepare for Meeting with NSF Acting Director; Discussion with NSF Acting Deputy Director; Closing Discussion.

Dated: April 2, 2013.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2013–08011 Filed 4–5–13; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Regulatory Policies and Practices

The ACRS Subcommittee on Regulatory Policies and Practices will hold a meeting on April 23, 2013, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, April 23, 2013—1:00 p.m. Until 5:00 p.m.

The Subcommittee will review and discuss the regulatory basis for the proposed rule on Station Blackout being developed by the NRC staff. The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Christina Antonescu (Telephone 301–415–6792 or Email: *Christina.Antonescu@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 18, 2012, (77 FR 64146–64147).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs*. Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: April 1, 2013.

Antonio Dias,

Technical Advisor, Advisory Committee on Reactor Safeguards.

[FR Doc. 2013–08114 Filed 4–5–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Reliability & PRA

The ACRS Subcommittee on Reliability & PRA will hold a meeting on April 24, 2013, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, April 24, 2013—8:30 a.m. Until 12:00 p.m.

The Subcommittee will review and discuss the progress of the Human Reliability Analysis (HRA) methods being developed by the NRC. The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), John Lai (Telephone 301–415–5197 or Email: *John.Lai@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 18, 2012, (77 FR 64146–64147).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: March 28, 2013.

Antonio Dias,

Technical Advisor, Advisory Committee on Reactor Safeguards.

[FR Doc. 2013–08106 Filed 4–5–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Advanced Boiling Water Reactor

The ACRS Subcommittee on Advanced Boiling Water Reactor (ABWR) will hold a meeting on April 24, 2013, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of a portion that may be closed to protect information that is propriety pursuant to 5 U.S.C. 552(c)(4). The agenda for the subject meeting shall be as follows:

Wednesday, April 24, 2013–8:15 a.m. until 12:00 p.m.

The Subcommittee will review Chapter 2 of the Safety Evaluation Report (SER) associated with the combined license application (COLA) for South Texas Project (STP) Units 3 and 4. The Subcommittee will also review proposed resolution of Action Items associated with the STP COLA. The Subcommittee will hear presentations by and hold discussions with the applicant, Nuclear Innovation North America (NINA), the NRC staff and other interested persons regarding these matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Maitri Banerjee (Telephone 301–415–3718 or Email: *Maitri.Banerjee@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 18, 2012, (77 FR 64146–64147).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: April 1, 2013.

Antonio Dias,

Technical Advisor, Advisory Committee on Reactor Safeguards.

[FR Doc. 2013–08131 Filed 4–5–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on US–APWR

The ACRS Subcommittee on US–APWR will hold a meeting on April 25–26, 2013, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of portions that may be closed to protect information that is propriety pursuant to 5 U.S.C. 552(c)(4). The agenda for the subject meeting shall be as follows:

Thursday, April 25, 2013—8:30 a.m. Until 5:00 p.m.; Friday, April 26, 2013—8:30 a.m. Until 5:00 p.m.

The Subcommittee will review Chapter 7, ''Instrumentation and Control,'' of the Safety Evaluation Report (SER) associated with the US-APWR design certification and the Comanche Peak Combined License Application (COLA); and, part of Chapter 2, ''Site Characteristics.'' of the Comanche Peak COLA. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, Mitsubishi Heavy Industries, Luminant Generation Company, LLC, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Girija Shukla (Telephone 301–415–6855 or Email: *Girija.Shukla@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 18, 2012, (77 FR 64146–64147).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: April 1, 2013.

Antonio Dias,

Technical Advisor, Advisory Committee on Reactor Safeguards.

[FR Doc. 2013–08139 Filed 4–5–13; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an Open Meeting on Wednesday, April 10, 2013 at 10:00 a.m., in the Auditorium, Room L–002.

The subject matter of the Open Meeting will be:

The Commission will consider whether to adopt new rules and guidelines, jointly with the Commodity Futures Trading Commission, to require certain entities that are subject to the Commissions' respective enforcement authorities to establish programs to address risks of identity theft.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: April 3, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–08164 Filed 4–4–13; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Face Up Entertainment Group, Inc.; Order of Suspension of Trading

April 4, 2013.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Face Up Entertainment Group, Inc. (''Face Up'') because of questions concerning the adequacy and accuracy of publicly available information about Face Up, including, among other things, its financial condition, the control of the company, its business operations, and trading in its securities. Face Up is a Florida corporation based in Valley Stream, New York and is traded under the symbol ''FUEG.''

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT, on April 4, 2013 through 11:59 p.m. EDT, on April 17, 2013.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–08196 Filed 4–4–13; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69281]

Order Temporarily Exempting Certain Broker-Dealers From the Recordkeeping, Reporting, and Monitoring Requirements of Rule 13h–1 Under the Securities Exchange Act of 1934

April 3, 2013.

On July 27, 2011, the Securities and Exchange Commission (''Commission'') adopted Rule 13h–1 under the Securities Exchange Act of 1934 (''Exchange Act'') concerning large trader reporting to assist the Commission in both identifying, and obtaining trade information for, market participants that conduct a substantial amount of trading activity, as measured by volume or market value, in U.S. securities (such persons are referred to as ''large traders'').[1]

In addition to requiring large traders to register with the Commission by filing and periodically updating Form 13H, Rule 13h–1 requires certain broker-dealers to, among other things, maintain specified records of transactions that they effect, directly or indirectly, for large traders, and to report to the Commission, upon request of the Commission, such records in electronic format.

Initially, the compliance date for the broker-dealer recordkeeping and reporting requirements of Rule 13h–1(d) and (e), respectively, as well as the requirement under Rule 13h–1(f) for broker-dealers to monitor their customers' accounts for activity that may trigger the large trader identification requirements of Rule 13h–1, was April 30, 2012. The Financial Information Forum (''FIF'')[2] and the Securities Industry and Financial Markets Association (''SIFMA'')[3] previously requested that the Commission grant certain substantive relief and temporarily exempt registered broker-dealers from the recordkeeping, reporting, and monitoring requirements of the Rule to provide them with additional time to comply.[4]

Pursuant to Exchange Act Section 13(h)(6) and Rule 13h–1(g) thereunder,[5] the Commission, by order, may exempt from the provisions of Rule 13h–1, upon specified terms and conditions or for stated periods, any person or class of persons or any transaction or class of transactions from the provisions of Rule 13h–1 to the extent that such exemption is consistent with the purposes of the Exchange Act.

In response to FIF's and SIFMA's requests, the Commission temporarily exempted broker-dealers from the recordkeeping, reporting, and monitoring requirements, thereby establishing a two-phased approach to implementation.[6] In the first phase, the Commission provided a temporary exemption to extend the compliance date from April 30, 2012 to November 30, 2012 for the broker-dealer recordkeeping and reporting requirements of Rule 13h–1 with respect to a clearing broker-dealer for a large trader where the large trader: (1) Is a U.S.-registered broker-dealer,[7] or (2) trades through a sponsored access arrangement[8] (''Phase One''). In the

[1] *See* Securities Exchange Act Release No. 64976 (July 27, 2011), 76 FR 46960 (Aug. 3, 2011) (''Rule 13h–1 Adopting Release''). The effective date of Rule 13h–1 was October 3, 2011.

[2] *See* Letter from Manisha Kimmel, Executive Director, Financial Information Forum, to Robert Cook, Director, and David Shillman, Associate Director, Division of Trading and Markets, Commission, dated January 25, 2012 (''FIF Letter''), *available at: http://www.sec.gov/comments/s7-10-10/s71010.shtml.*

[3] *See* Letter from Ann L. Vlcek, Managing Director and Associate General Counsel, SIFMA, to David S. Shillman, Associate Director, Division, Commission, dated March 29, 2012, *available at: http://www.sec.gov/comments/s7-10-10/s71010.shtml.*

[4] *See* Securities Exchange Act Release No. 66839 (April 20, 2012), 77 FR 25007 (April 26, 2012) (''April Exemptive Order'').

[5] *See* 15 U.S.C. 78m(h)(6) and 17 CFR 240.13h–1(g), respectively.

[6] The April Exemptive Order also provided an exemption for certain transactions from the definition of the term ''transaction'' provided in Rule 13h–1(a)(6) for the purpose of determining whether a person is a large trader. *See* April Exemptive Order, *supra* note 4.

[7] The reportable activity would include proprietary trading by a large trader broker-dealer where the large trader is trading for its own account.

[8] A ''sponsored access arrangement'' in this context refers to an arrangement in which a broker-dealer permits a large trader customer to enter orders directly to a trading center where such orders are not processed through the broker-dealer's own trading system (other than any risk management controls established for purposes of compliance with Rule 15c3–5 under the Exchange Act) and where the orders are routed directly to a trading center, in some cases supported by a service bureau or other third party technology provider. *See* Securities Exchange Act Release No. 63241 (November 3, 2010), 75 FR 69792 (November 15, 2010) (S7–03–10).

second phase, which concerned the remaining portions of the rule, the Commission provided a temporary exemption to extend the compliance date for the additional broker-dealer recordkeeping, reporting, and monitoring requirements of Rule 13h–1 from April 30, 2012, to May 1, 2013 (''Phase Two'').

With Phase One fully implemented, the Commission now is focusing its attention on FIF's and SIFMA's relief requests concerning Phase Two. On February 13, 2013, SIFMA submitted a supplemental letter that outlined its members' experience in implementing Phase One and also provided additional detail on implementation issues relating to the Phase Two deadline.[9] Because many of the issues presented in Phase One also are implicated in the Phase Two relief request, such as the issues concerning average price account processing and the transmission of execution time information on disaggregated trades, the Commission currently is considering the industry's experience with Phase One implementation in evaluating the requests for relief concerning Phase Two.

The Commission believes that it is appropriate and consistent with the purposes of the Exchange Act to provide a temporary exemption from the Phase Two broker-dealer recordkeeping, reporting, and monitoring requirements of Rule 13h–1 to further extend the compliance date for Phase Two. This temporary exemption from the Rule's requirements should provide the Commission with the necessary time to complete its review of the implementation issues raised by FIF and SIFMA, assess the appropriateness of the requested exemptive relief, announce its response thereto, and allow broker-dealers time to develop, test, and implement any necessary systems changes once the Commission's review is complete.

Accordingly, the Commission is providing a temporary exemption to extend the compliance date to *November 1, 2013,* solely for the Phase Two broker-dealer recordkeeping, reporting, and monitoring requirements of Rule 13h–1.[10]

It is hereby ordered, pursuant to Exchange Act Section 13(h)(6) and Rule 13h–1(g) thereunder, that broker-dealers subject to the recordkeeping, reporting, and monitoring requirements of Rule 13h–1 (other than clearing broker-dealers for a large trader that either (1) is a U.S.-registered broker-dealer, or (2) trades through a sponsored access arrangement) are temporarily exempted from those requirements until November 1, 2013.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–08100 Filed 4–5–13; 8:45 am]

BILLING CODE 8011–01–P

[9] *See* Letter from Theodore Lazo, Managing Director and Associate General Counsel, SIFMA, to David S. Shillman, Associate Director, Division, Commission, dated February 13, 2013, *available at: http://www.sec.gov/comments/s7-10-10/s71010.shtml.*

[10] The effective date for Rule 13h–1 remains October 3, 2011. The compliance date for the requirement on large traders to identify to the Commission pursuant to Rule 13h–1(b) was December 1, 2011. The compliance date for Phase One was November 30, 2012.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69268; File No. SR–C2–2013–017]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Fees Schedule

April 2, 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 26, 2013, C2 Options Exchange, Incorporated (the ''Exchange'' or ''C2'') 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. [3] 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 its Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (*http://www.c2exchange.com/Legal/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission notes that the Exchange initially filed this proposed rule change as SR–C2–2013–015 on March 18, 2013, withdrew that filing on March 26, 2013, and re-filed the proposed rule change as SR–C2–2013–017 on March 26, 2013.

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 Exchange intends to commence the listing and trading of option contracts overlying 10 shares of a security (''Mini-options,'' or ''Minis'').[4] Because the regular per-contract unit of trading for the five options classes (SPY, AAPL, GLD, GOOG, and AMZN) on which the Exchange has proposed listing Minis is 100 shares, a Mini effectively functions as 1/10 of a regular options contract (generally speaking). The Exchange hereby proposes to adopt fees for the trading of Minis (all fees referenced herein are per-contract unless otherwise stated).

Minis have a smaller exercise and assignment value due to the reduced number of shares they deliver as compared to standard option contracts. As such, the Exchange is proposing generally lower per contract fees as compared to standard option contracts, with some exceptions to be fully described below. Despite the smaller exercise and assignment value of a Mini, the cost to the Exchange to process quotes and orders in Minis, perform regulatory surveillance and retain quotes and orders for archival purposes

[4] *See* Securities Exchange Act Release No. 68656 (January 15, 2013), 78 FR 4526 (January 22, 2013) (SR–CBOE–2013–001), in which the Chicago Board Options Exchange, Inc. (''CBOE'') proposed to list Mini Options on SPDR S&P 500 (''SPY''), Apple, Inc. (''AAPL''), SPDR Gold Trust (''GLD''), Google Inc. (''GOOG'') and Amazon.com Inc. (''AMZN'') (together, the ''Mini Classes''). SPY and GLD are Exchange-Traded Funds (''ETFs'') and AAPL, AMZN and GOOG are equity options. Chapter 5 to the C2 Rulebook provides that the rules contained in CBOE Chapter V, as such rules may be in effect from time to time, shall apply to C2 and that C2 participants shall comply with CBOE Rule Chapter 5 as if such rules were part of the C2 Rules. Accordingly, when CBOE amended Rule 5.5 to provide for the trading of mini-options, that filing resulted in a simultaneous change to identical C2 rules. SR–C2–2013–014 expounds on the listing and trading of Minis on C2.

is the same as a for a standard contract. This leaves the Exchange in a position of trying to strike the right balance of fees applicable to Minis—too low and the costs of processing Mini quotes and orders will necessarily cause the Exchange to either raise fees for everyone or only for participants trading Minis; too high and participants may be deterred from trading Minis, leaving the Exchange less able to recoup costs associated with development of the product, which is designed to offer investors a way to take less risk in high dollar securities. The Exchange, therefore, believes that adopting fees for Minis that are in some cases lower than fees for standard contracts, and in other cases the same as for standard contracts, is appropriate, not unreasonable, not unfairly discriminatory and not burdensome on competition between participants, or between the Exchange and other exchanges in the listed options marketplace.

The Exchange proposes to adopt a set of fees for simple, non-complex orders in all multiply-listed index and ETF mini-options classes. The Exchange proposes a Public Customer Mini Maker rebate of $0.04, which is slightly more than 1/10th the $0.37 rebate for standard-sized Public Customer simple, non-complex Maker orders in all multiply-listed index and ETF options classes. The Exchange does not wish to apply sub-penny transaction fees for multiply-listed index and ETF mini options, and the slight increase over 1/10th the rebate for standard-sized Public Customer simple, non-complex Maker orders in all multiply-listed index and ETF options classes is intended to incentivize Public Customers to send simple, non-complex orders in all multiply-listed index and ETF mini-options classes to the Exchange. The Exchange proposes a Public Customer Mini Taker fee of $0.04, which is slightly less than 1/10th the $0.44 fee for standard-sized Public Customer simple, non-complex Taker orders in all multiply-listed index and ETF options classes. The slight decrease below 1/10th the fee for standard-sized Public Customer simple, non-complex Taker orders in all multiply-listed index and ETF options classes is intended to incentivize Public Customers to send simple, non-complex orders in all multiply-listed index and ETF mini-options classes to the Exchange.

The Exchange proposes to adopt a C2 Market-Maker Maker rebate of $0.04 for simple, non-complex orders in all multiply-listed index and ETF mini-options classes, which is 1/10th the amount of the rebate for standard-sized C2 Market-Maker simple, non-complex Maker orders in all multiply-listed index and ETF options classes. The Exchange proposes a C2 Market-Maker Mini Taker fee of $0.05 for simple, non-complex orders in all multiply-listed index and ETF mini-options classes, which is slightly more than 1/10th the $0.45 fee for standard-sized C2 Market-Maker simple, non-complex Taker orders in all multiply-listed index and ETF options classes. As noted earlier, the cost to the Exchange to process quotes, orders and trades in Minis is the same as for standard options, and therefore, in some situations, the Exchange must assess a Minis fee of more than 1/10th the amount assessed for standard options transactions.

The Exchange proposes to adopt a Maker rebate of $0.03 for simple, non-complex orders in all multiply-listed index and ETF mini-options classes from all other origins (Professional Customer, Firm, Broker/Dealer, non-C2 Market-Maker, JBO, etc.), which is slightly less than 1/10th the amount of the rebate for standard-sized simple, non-complex Maker orders in all multiply-listed index and ETF options classes from all other origins. As noted earlier, the cost to the Exchange to process quotes, orders and trades in Minis is the same as for standard options, and therefore, in some situations, the Exchange cannot provide a Minis rebate of equal to or greater than 1/10th the amount provided for standard options transactions. The Exchange proposes a Taker fee of $0.04 for simple, non-complex orders in all multiply-listed index and ETF mini-options classes from all other origins, which is slightly less than 1/10th the $0.45 fee for standard-sized simple, non-complex Taker orders in all multiply-listed index and ETF options classes from all other origins. The Exchange offers this slightly-lower-than-1/10th fee in order to prevent the Exchange from having a difference of more than $0.01 between the rebate offered and fee assessed for simple, non-complex orders in all multiply-listed index and ETF mini-options classes from all other origins.

On February 1, 2013, the Exchange instituted a new fee structure for simple, non-complex orders in equity options classes that is based on the following formula: [5]

Fee = (C2 BBO Market Width at time of execution) × (Market Participant Rate) × 50.

This new structure has a maximum fee of $0.85 per contract. Because a Mini effectively functions as 1/10th of a standard options contract, the Exchange proposes to state that, for mini-options, the multiplier in the above formula will be 5 instead of 50, and the maximum fee will be $0.085.

In conjunction with this new fee structure, the Exchange also instituted a Public Customer Taker rebate for simple, non-complex orders in equity options classes that is based on the following formula: Rebate = (C2 BBO Market Width at time of execution) × (Order Size Multiplier) × 50

This new structure has a maximum rebate of $0.75 per contract. Because a Mini effectively functions as 1/10th of a standard options contract, the Exchange proposes to state that, for mini-options, the multiplier in the above formula will be 5 instead of 50, and the maximum rebate will be $0.075.

The Exchange proposes to adopt a set of fees for complex orders in all multiply-listed index and ETF mini-options classes. The Exchange proposes a Public Customer rebate (for both Makers and Takers) for such orders of $0.03, which is slightly less than 1/10th the amount of the rebate for standard-sized complex Public Customer orders in all multiply-listed index and ETF options classes. As noted earlier, the cost to the Exchange to process quotes, orders and trades in Minis is the same as for standard options, and therefore, in some situations, the Exchange cannot provide a Minis rebate of equal to or greater than 1/10th the amount provided for standard options transactions. As with standard-sized complex Public Customer orders in all multiply-listed index and ETF options classes, no Maker or Taker fee or rebate will apply to Public Customer Mini orders that trade with other Public Customer Mini orders.

The Exchange proposes to adopt a Maker fee of $0.01 for C2 Market-Maker complex orders in all multiply-listed index and ETF mini-options classes and of $0.02 for complex orders in all multiply-listed index and ETF mini-options classes from all other origins (except Public Customers, who will be provided the rebate described above). These amounts are exactly 1/10th the amounts of their respective corresponding fees for standard-sized complex orders in all multiply-listed index and ETF options classes. The Exchange proposes to adopt a Taker fee of $0.03 for complex orders in all multiply-listed index and ETF mini-options classes from C2 Market-Makers and all other origins (except Public Customers, who will be provided the

[5] *See* Securities Exchange Act Release No. 68792 (January 31, 2013), 78 FR 8621 (February 6, 2013) (SR–C2–2013–004). For details on this new structure, *see* C2 Fees Schedule, Section 1B.

rebate described above). This amount is slightly less than 1/10rh [sic] the corresponding fees for standard-sized complex orders in all multiply-listed index and ETF options classes, but is being utilized in order to maintain whole-penny fee rates and encourage trading of complex orders in all multiply-listed index and ETF mini-options classes.

As with orders (both simple and complex) in all standard-sized multiply-listed index and ETF options classes, the Exchange proposes to assess no fee (and provide no rebate) for orders in all multiply-listed index and ETF mini-options classes that are Trades on the Open.

The Exchange proposes to not establish a separate set of Mini fees for complex order transactions in equity options. Instead, Minis will be encompassed within the current statement on the Exchange's Fees Schedule that for all complex order transactions in equity options classes, all components of such transactions (including simple, non-complex orders and/or quotes that execute against a complex order) will be assessed no fee (or rebate).

In order to comply with the Options Order Protection and Locked/Crossed Market Plan (the ''Linkage Plan''), the Exchange uses various means of accessing better priced interest located on other exchanges and assesses fees associated with the execution of orders routed to other exchanges.[6] For Public Customers, these fees involve, in some circumstances, the passing-through of the actual transaction fee assessed by the exchange(s) to which the order was routed, while in others, and for non-Customers, a set amount is assessed. These fees are designed to help recover the Exchange's costs in routing orders to other exchanges. The Exchange believes that the Options Clearing Corporation (''OCC'') and broker-dealers will be assessing the same charges for Minis as are assessed to standard options. Further, the Exchange's costs for routing Minis through to other exchanges will be the same as the Exchange's costs for routing standard options to other exchanges. As such, the Exchange intends apply to Mini options the same Linkage Fees structure as applies to standard options. The Exchange notes that participants can avoid the Linkage Fees in several ways. First, they can simply route to the exchange with the best priced interest. The Exchange, in recognition of the fact that markets can move while orders are in flight, also offers participants the ability to utilize order types that do not route to other exchanges. Specifically, the Immediate-or-Cancel Order (''IOC Order'') is one such order that would never route to another exchange. For all these reasons, the Exchange believes it is reasonable to apply to Mini options the same Linkage Fees structure as applies to standard options.

Currently, the Exchange assesses a $0.002 per contract Options Regulatory Fee (''ORF'').[7] The Exchange is proposing to charge the same rate for transactions in Mini options, $0.002 per contract, since, as noted, the costs to the Exchange to process quotes, orders, trades and the necessary regulatory surveillance programs and procedures in Minis are the same as for standard option contracts. As such, the Exchange feels that it is appropriate to charge the ORF at the same rate as the standard option contract. The Exchange also assesses a Firm Designated Examining Authority Fee (the ''DEA Fee'') of $0.40 per $1,000 of gross revenue.[8] Any revenue that comes from Mini trading would count towards the DEA Fee (as does other revenue).

Similarly, because, as noted, the costs to the Exchange to process quotes, orders, trades and the necessary regulatory surveillance programs and procedures in Minis are the same as for standard option contracts, the Exchange will assess to Mini transactions the same PULSe Workstation Away-Market Routing, Away-Market Routing Intermediary, and C2 Routing fees (the ''PULSe Workstation Fees'') [9] as are assessed to standard options transactions.

When the Exchange amended its Fees Schedule to institute a new fee structure for simple, non-complex orders in equity options classes,[10] this new fee structure was placed in Section 1B of the Fees Schedule, and the fees that had previously been listed in Section 1B became listed in Section 1C. However, the Exchange unintentionally failed to update some of the references in Section 1C to reflect that re-numbering. As such, two places in Section 1C reference ''this Section 1B'' even though that is now Section 1C. The Exchange hereby proposes to amend those references so that they accurately refer to ''this Section 1C''.

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.[11] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[12] 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.

The Exchange believes that its proposal to assess a Public Customer Maker rebate of $0.04 for simple, non-complex orders in all multiply-listed index and ETF mini-options classes is reasonable because this provides Public Customer Makers with a rebate for such transactions (instead of having to pay a fee). The Exchange believes this rebate is equitable and not unfairly discriminatory because it is slightly more than 1/10th the $0.37 rebate for standard-sized Public Customer simple, non-complex Maker orders in all multiply-listed index and ETF options classes. The Exchange does not wish to apply sub-penny transaction fees for multiply-listed index and ETF mini options, and the slight increase over 1/10th the rebate for standard-sized Public Customer simple, non-complex Maker orders in all multiply-listed index and ETF options classes is intended to incentivize Public Customers to send simple, non-complex orders in all multiply-listed index and ETF mini-options classes to the Exchange. The Exchange believes that its proposal to assess a Public Customer Mini Taker fee of $0.04 is reasonable, equitable and not unfairly discriminatory because it is slightly less than 1/10th the $0.44 fee for standard-sized Public Customer simple, non-complex Taker orders in all multiply-listed index and ETF options classes. The slight decrease below 1/10th the fee for standard-sized Public Customer simple, non-complex Taker orders in all multiply-listed index and ETF options classes is intended to incentivize Public Customers to send simple, non-complex orders in all multiply-listed index and ETF mini-options classes to the Exchange.

The Exchange believes that its proposal to adopt a C2 Market-Maker Maker rebate of $0.04 for simple, non-complex orders in all multiply-listed index and ETF mini-options classes is

[6] *See* C2 Fees Schedule, Section 2.

[7] *See* C2 Fees Schedule, Section 8E.

[8] *See* C2 Fees Schedule, Section 8A.

[9] *See* C2 Fees Schedule, Section 11A.

[10] *See* Securities Exchange Act Release No. 68792 (January 31, 2013), 78 FR 8621 (February 6, 2013) (SR–C2–2013–004). For details on this new structure, see C2 Fees Schedule, Section 1B.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

reasonable because it is 1/10th the amount of the rebate for standard-sized C2 Market-Maker simple, non-complex Maker orders in all multiply-listed index and ETF options classes. The Exchange believes that its proposal to adopt a C2 Market-Maker Mini Taker fee of $0.05 for simple, non-complex orders in all multiply-listed index and ETF mini-options classes is reasonable, equitable and not unfairly discriminatory. While it is slightly more than 1/10th the $0.45 fee for standard-sized C2 Market-Maker simple, non-complex Taker orders in all multiply-listed index and ETF options classes, as noted earlier, the cost to the Exchange to process quotes, orders and trades in Minis is the same as for standard options, and therefore, in some situations, the Exchange must assess a Minis fee of more than 1/10th the amount assessed for standard options transactions. Further, the Exchange does not desire to assess sub-penny transaction fees for simple, non-complex orders in all multiply-listed index and ETF mini-options classes, and this amount allows the Exchange to assess a Taker fee that is $0.01 more than the Maker rebate for simple, non-complex C2 Market-Maker orders in all multiply-listed index and ETF mini-options classes, and such a difference is necessary for reasons of economic viability. The Exchange believes that it is equitable and not unfairly discriminatory to assess a higher Taker fee for simple, non-complex C2 Market-Maker orders in all multiply-listed index and ETF mini-options classes than for corresponding Taker orders in those classes that come from all other origins (except Public Customers) because the Exchange is also providing a higher Maker rebate to C2 Market-Makers for such orders.

The Exchange believes that its proposal to adopt a Maker rebate of $0.03 for simple, non-complex orders in all multiply-listed index and ETF mini-options classes from all other origins (Professional Customer, Firm, Broker/Dealer, non-C2 Market-Maker, JBO, etc.) is reasonable, equitable and not unfairly discriminatory. While this amount is slightly less than 1/10th the amount of the rebate for standard-sized simple, non-complex Maker orders in all multiply-listed index and ETF options classes from all other origins, as noted earlier, the cost to the Exchange to process quotes, orders and trades in Minis is the same as for standard options, and therefore, in some situations, the Exchange cannot provide a Minis rebate of equal to or greater than 1/10th the amount provided for standard options transactions. The Exchange believes that its proposal to adopt a Taker fee of $0.04 for simple, non-complex orders in all multiply-listed index and ETF mini-options classes from all other origins is reasonable, equitable and not unfairly discriminatory because it is slightly less than 1/10th the $0.45 fee for standard-sized simple, non-complex Taker orders in all multiply-listed index and ETF options classes from all other origins. The Exchange offers this slightly-lower-than-1/10th fee in order to prevent the Exchange from having a difference of more than $0.01 between the rebate offered and fee assessed for simple, non-complex orders in all multiply-listed index and ETF mini-options classes from all other origins. Further, the offering of a Maker rebate that is slightly lower than 1/10th that offered for standard options is offset by the fact that the Exchange is offering a fee of slightly lower than 1/10th that assessed for standard options.

The Exchange believes that it is equitable and not unfairly discriminatory to offer a fee and rebate structure for simple, non-complex Public Customer orders in all multiply-listed index and ETF mini-options classes that does not include a difference between the Maker rebate and Taker fee (as opposed to simple, non-complex orders from C2 Market-Makers and all other origins in all multiply-listed index and ETF mini-options classes) because this is intended to incentivize Public Customers to send simple, non-complex orders in all multiply-listed index and ETF mini-options classes to the Exchange. This is beneficial to all other participants on the Exchange who generally seek to trade with Public Customer order flow and who benefit from the increased volume and trading opportunities. Further, the options marketplace has a history of offering preferential pricing to Customers. The Exchange believes that it is equitable and not unfairly discriminatory to assess to C2 Market-Makers a higher Taker fee for simple, non-complex orders in all multiply-listed index and ETF mini-options classes than that assessed to all other market participants because the Exchange is also offering a higher Maker rebate to C2 Market-Makers for such orders than is being offered to orders from all other origins (except Public Customers), and because this allows the Exchange to maintain a $.01 difference between the C2 Market-Maker Taker fee and Maker rebate (the same difference as is being maintained between the Taker fee and Maker rebate for orders from all other origins (except Public Customers)).

The Exchange believes that it is reasonable to assess no fees for Mini Trades on the Open because this will allow all market participants to avoid paying fees for such trades. The Exchange believes that this is equitable and not unfairly discriminatory because it will apply to all market participants, and because the Exchange currently does not assess fees for Trades on the Open for standard options.

The Exchange believes that the proposed Mini fee and rebate structure (including maximum fees and rebates) for simple, non-complex orders in equity options classes is reasonable, equitable and not unfairly discriminatory because the proposed amounts are all 1/10th the amounts of the fees and rebates (including maximum fees and rebates) for simple, non-complex orders in standard-sized equity options classes.

The Exchange believes that its proposal to set a Public Customer rebate (for both Makers and Takers) for complex orders in all multiply-listed index and ETF mini-options classes of $0.03 is reasonable, equitable and not unfairly discriminatory. This amount is slightly less than 1/10th the amount of the rebate for standard-sized complex Public Customer orders in all multiply-listed index and ETF options classes. Nonetheless, this is still a rebate (as opposed to a fee). Further, as noted earlier, the cost to the Exchange to process quotes, orders and trades in Minis is the same as for standard options, and therefore, in some situations, the Exchange cannot provide a Minis rebate of equal to or greater than 1/10th the amount provided for standard options transactions. The Exchange believes that applying the statement that no Maker or Taker fee or rebate will apply to Public Customer Mini orders that trade with other Public Customer complex orders in all multiply-listed index and ETF options classes to Minis is reasonable because it would not be economically viable to give a rebate to both sides of an order or to give to one side of an order if the other side was not assessed a fee. This is equitable and not unfairly discriminatory because this statement applies to Public Customer complex orders in all multiply-listed index and ETF standard-sized options classes.

The Exchange believes the proposal to adopt a Maker fee of $0.01 for C2 Market-Maker complex orders in all multiply-listed index and ETF mini-options classes and of $0.02 for complex orders in all multiply-listed index and ETF mini-options classes from all other

origins is reasonable, equitable and not unfairly discriminatory. These amounts are exactly 1/10th the amounts of their respective corresponding fees for standard-sized complex orders in all multiply-listed index and ETF options classes. The Exchange believes the proposal to adopt a Taker fee of $0.03 for complex orders in all multiply-listed index and ETF mini-options classes from C2 Market-Makers and all other origins is reasonable, equitable and not unfairly discriminatory. This amount is slightly less than 1/10th the corresponding fees for standard-sized complex orders in all multiply-listed index and ETF options classes and is intended to encourage trading of complex orders in all multiply-listed index and ETF mini-options classes.

The Exchange believes that it is equitable and not unfairly discriminatory to offer rebates for both Maker and Taker complex Public Customer orders in all multiply-listed index and ETF mini-options classes (as opposed to complex orders from C2 Market-Makers and all other origins in all multiply-listed index and ETF mini-options classes) because this is intended to incentivize Public Customers to send complex orders in all multiply-listed index and ETF mini-options classes to the Exchange. This is beneficial to all other participants on the Exchange who generally seek to trade with Public Customer order flow and who benefit from the increased volume and trading opportunities. Further, the options marketplace has a history of offering preferential pricing to Customers. The Exchange believes that it is equitable and not unfairly discriminatory to assess to C2 Market-Makers a lower Maker fee for complex orders in all multiply-listed index and ETF mini-options classes than that assessed to all other market participants (excluding Public Customers) because C2 Market-Makers take on obligations, such as quoting obligations, that other market participants do not need to take on.

The Exchange believes that its proposal to encompass Minis within the current statement on the Exchange's Fees Schedule that for all complex order transactions in equity options classes, all components of such transactions (including simple, non-complex orders and/or quotes that execute against a complex order) will be assessed no fee (or rebate) is reasonable because it will allow market participants trading complex Mini equity options to avoid paying a fee for doing so. The Exchange believes this is equitable and not unfairly discriminatory because it applies to all market participants, and because this statement currently applies to standard-sized complex equity options.

The Exchange believes that it is equitable and not unfairly discriminatory to offer different fee and rebate structures for simple and complex orders in Mini classes because the nature, incentives and economics of trading for simple and complex orders can be very different. Further, the Exchange currently offers different fee and rebate structures for simple and complex orders in standard-sized options classes,[13] and the International Securities Exchange, LLC (''ISE'') proposes to assess different fees and rebates for simple and complex orders in Mini options.[14] The Exchange believes that it is equitable and not unfairly discriminatory to offer different fee and rebate structures for multiply-listed index and ETF options and for multiply-listed equity options because the nature, incentives and economics of trading of index and ETF options and equity options can be very different. Further, the Exchange currently offers different fee and rebate structures for index and ETF options and equity options,[15] as does the Chicago Board Options Exchange, Incorporated (''CBOE'').[16]

The Exchange believes that subjecting Minis to the same amounts as standard options for purposes of PULSe Workstation Fees is reasonable because the costs of operating and maintaining the PULSe Workstations for Mini transactions are the same as for standard options transactions. This is equitable and not unfairly discriminatory because the same fee amounts will be assessed for Minis as for standard options, and because such fees will apply to all Mini transactions.

The Exchange believes that its proposal to treat Mini options the same as standard options for purposes of the Linkage Fees is reasonable, equitable and not unfairly discriminatory for the following reasons. The Linkage Fees are designed to help recover the Exchange's costs in routing orders to other exchanges. The Exchange believes that the OCC and broker-dealers will be assessing the same charges for Minis as are assessed to standard options. Further, the Exchange's costs for routing Minis through to other exchanges will be the same as the Exchange's costs for routing standard options to other exchanges. As such, the Exchange believes that it makes sense apply to Mini options the same Linkage Fees structure as applies to standard options. The Exchange notes that participants can avoid the Linkage Fees in several ways. First, they can simply route to the exchange with the best priced interest. The Exchange, in recognition of the fact that markets can move while orders are in flight, also offers participants the ability to utilize order types that do not route to other exchanges. Specifically, the IOC Order is one such order that would never route to another exchange. For all these reasons, the Exchange believes it is reasonable and equitable to apply to Mini options the same Linkage Fees structure as applies to standard options. Further, the Exchange believes that it is equitable and not unfairly discriminatory to treat Mini options the same as standard options for purposes of the Linkage Fees for that tautological reason; Mini options will be treated the same as standard options for the purposes of Linkage Fees. Finally, since the Linkage Fees will apply to all participants in Minis as they apply for standard options, and because such Linkage Fees have not previously been found to be unreasonable, inequitable or unfairly discriminatory, the Exchange believes this to be the case for Minis as well.

The Exchange believes that the proposal to assess the same ORF amount to Minis as are assessed to standard options is reasonable because, as noted, the costs to the Exchange to process quotes, orders, trades and the necessary regulatory surveillance programs and procedures in Minis are the same as for standard option contracts. As such, the Exchange feels that it is appropriate to charge the ORF at the same rate as the standard option contract. Further, the Exchange notes that the cost to perform surveillance to ensure compliance with various Exchange and industry-wide rules is no different for a Mini option than it is for a standard option contract. Reducing the ORF for Mini options could result in a higher ORF for standard options. As such, the Exchange currently believes that the appropriate approach is to treat both Minis and standard options the same with respect to the amount of the ORF that is being charged. The proposed ORF for Minis is equitable and not unfairly discriminatory because the same ORF amount is currently assessed to standard options. Further, all Minis will be assessed the ORF. The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to count

[13] *See* C2 Fees Schedule, Section 1.

[14] *See* SR–ISE–2013–24, available at *http://www.ise.com/assets/documents/OptionsExchange/legal/proposed_rule_changes/2013/SR-ISE-2013-24$Proposed_Rule_Change_to_Establish_Fees_and_Rebates_for_Mini_Options$20130314.pdf.*

[15] *See* C2 Fees Schedule, Section 1.

[16] *See* CBOE Fees Schedule, page 1.

revenue from Mini trading towards the DEA Fee because revenue from Mini trading is revenue, and other revenue counts towards the DEA Fee. The Exchange also believes that this is equitable and not unfairly discriminatory because it will apply to all market participants to whom the DEA Fee apply.

The Exchange believes that the proposed change to correct the references in Section 1C of the Fees Schedule is consistent with the Section 6(b)(5) [17] 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 facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Correcting the references prevents confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change designed to provide greater specificity and precision within the Fee Schedule with respect to the fees applicable to Minis.

The Exchange believes that adopting fees for Minis that are in some cases lower than for standard contracts, but in other cases the same as for standard contracts, strikes the appropriate balance between fees applicable to standard contracts versus fees applicable to Minis, and will not impose a burden on competition among various market participants on the Exchange not necessary or appropriate in furtherance of the purposes of the Act. To the extent that the Exchange proposes assessing different fee amounts to different Exchange market participants, the Exchange believes that such differing assessments will not impose an unnecessary burden on intramarket competition due to the different natures of such market participants and different obligations imposed on such market participants (as described above). Further, in the cases in which some market participants are assessed lower fee amounts than others, the Exchange often does so with the intention of attracting greater trading from those market participants, and the increased volume and trading opportunities benefits all market participants.

The Exchange believes that the proposed fees structure for Mini options will not impose an unnecessary burden on intermarket competition. The Exchange believes that its proposed fees structure for Minis is competitive with those being offered by other exchanges. As such, the Exchange believes that the proposed fees structure for Minis will increase intermarket competition, which benefits all market participants. To the extent that market participants on other exchanges may be attracted to trade on C2 by the proposed fees structure for Mini options, they are always welcome to become market participants on C2.

As Minis 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 Minis. That said, however, the Exchange believes that the rates proposed for Minis 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

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 [18] and paragraph (f) of Rule 19b–4 [19] 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–C2–2013–017 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–C2–2013–017. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change;

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR [sic] 240.19b–4(f).

the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–C2–2013–017, and should be submitted on or before April 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–08089 Filed 4–5–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69271; File No. SR–NASDAQ–2013–056]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Eliminate a Fee for Use of FIX and OUCH Trading Ports for Testing

April 2, 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 28, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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

NASDAQ proposes to eliminate fees under Rules 7015(b) and (g), which are effective but not yet implemented, for subscription to FIX Trading Ports and OUCH Ports used for testing.

The text of the proposed rule change is below. Proposed deletions are in brackets.

* * * * *

7015. Access Services

The following charges are assessed by Nasdaq for connectivity to systems operated by NASDAQ, including the Nasdaq Market Center, the FINRA/NASDAQ Trade Reporting Facility, and FINRA's OTCBB Service. The following fees are not applicable to the NASDAQ Options Market LLC. For related options fees for Access Services refer to Chapter XV, Section 3 of the Options Rules.

(a) No change.

(b) Financial Information Exchange (FIX)

Ports	Price
FIX Trading Port	$500/port/month *.
FIX Port for Services Other than Trading.	$500/port/month.
[FIX Trading Port for Testing Nasdaq will assess the following fee for each FIX Trading Port assigned to an MPID that is in test mode in excess of one.].	[$300/port/month].

(c)—(f) No change.

(g) Other Port Fees

Remote Multi-cast ITCH Wave Ports

Description	Installation fee	Recurring monthly fee
MITCH Wave Port at Secaucus, NJ	$2,500	$7,500
MITCH Wave Port at Weehawken, NJ	2,500	7,500
MITCH Wave Port at Newark, NJ	2,500	7,500

The following port fees shall apply in connection with the use of other trading telecommunication protocols:

- $500 per month for each port pair,* other than Multicast ITCH® data feed pairs, for which the fee is $1000 per month for software-based TotalView-ITCH or $2,500 per month for combined software- and hardware-based TotalView-ITCH.
- An additional $200 per month for each port used for entering orders or quotes over the Internet.
- An additional $600 per month for each port used for market data delivery over the Internet.

[• $300 per port, per month for each OUCH Port assigned to an MPID that is in test mode in excess of one.]

(h) No change.

* Eligible for 25% discount under the Qualified Market Maker Program during a pilot period expiring on April 30, 2013.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ 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

NASDAQ is proposing to amend Rules 7015(b) and (g) to eliminate the recently-effective,[3] but not yet implemented, fees for member firm use of FIX Trading Ports and OUCH Ports, respectively, maintained in test mode. The fees were to be implemented on April 1, 2013 and this filing eliminates those fees prior to their implementation. As discussed in greater detail in the rule change adopting the fees,[4] a FIX Trading Port and an OUCH Port are both connections to the NASDAQ trading system (collectively, ''Trading Ports''). Historically, a member firm was not charged a fee for any of its subscribed Trading Ports designated as in ''test mode.''[5] NASDAQ determined to assess

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 69211 (March 22, 2013) (SR–NASDAQ–2013–050).

[4] *Id.*

[5] When a member firm designates a Trading Port's status as in test mode, NASDAQ will not

Continued

a fee for a member firm's Trading Ports in test mode in excess of one for each of a member firm's MPIDs in order to recoup costs associated with maintaining such ports. These costs include costs incurred maintaining servers and their physical location, monitoring order activity, and other support.

Upon further consideration, NASDAQ determined not to assess fees for Trading Ports in test mode at this time based on business considerations. NASDAQ considered the potential impact on its business as compared to the anticipated revenue generated from such fees, and determined that not assessing the fees is a better decision at this juncture. Instead, NASDAQ is considering other means to encourage member firms to either use their Trading Ports in test mode or cancel them, such as contacting member firms with idle Trading Ports. Accordingly, NASDAQ is eliminating the fees, which became effective on March 22, 2013 and were to be implemented on April 1, 2013. Should NASDAQ determine once again that assessing fees for Trading Ports in test mode is appropriate, it will file a rule change to assess such fees.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[6] in general, and with Section 6(b)(4)[7] of the Act, in particular. The Exchange believes it is consistent with Section 6(b)(4) of the Act because it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls. The rule change eliminates fees that recently became effective, but have not yet been implemented. NASDAQ believes that the not-yet-implemented fees for Trading Ports in test mode are consistent with the Act for all the reasons stated in the filing with the Commission adopting such fees.[8] Nonetheless, NASDAQ assessed the potential impact of the new fees on its member firms compared to the affect [sic] the fee might potentially have on the Exchange's business, and determined that assessing the fee at this juncture does not make sense from a business perspective. As noted, NASDAQ is exploring other means of encouraging the efficient use of Trading Ports in test mode, which will not involve assessing fees. Accordingly, NASDAQ will revert Rules 7015(b) and (g) back to their status prior to the fee change, so that all member firms with Trading Ports in test mode will not be assessed any fee whatsoever and NASDAQ will continue to incur the costs associated with supporting such ports.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition at all. The proposed change merely eliminates fees that are effective, yet not yet implemented. Accordingly, the Exchange does not believe any analysis of burden on competition is necessary.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing change has become effective pursuant to Section 19(b)(3)(A) of the Act,[9] and paragraph (f)[10] of Rule 19b–4, 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2013–056 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2013–056. This file number should be included on the subject line if email is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of NASDAQ. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–056, and should be submitted on or before April 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–08093 Filed 4–5–13; 8:45 am]

BILLING CODE 8011–01–P

allow normal order activity to occur through the port but rather it limits all order activity to test ticker symbols. The purpose of test mode is to permit a member firm to test its connection to the trading system to ensure that its messages are received accurately by the Exchange and that there are no issues with its own systems.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *Supra* note 3.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69273; File No. SR–NYSEMKT–2013–30]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Proposing To Establish the NYSE MKT Trades Digital Media Data Feed and a Schedule of the NYSE MKT Equities Proprietary Market Data Fees

April 2, 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 21, 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 Substance of the Proposed Rule Change

The Exchange proposes to establish the NYSE MKT Trades Digital Media data feed and a schedule of the NYSE MKT Equities Proprietary Market Data Fees. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish the NYSE MKT Trades Digital Media data feed and a Market Data Fee Schedule.

Background

In 2010, the Securities and Exchange Commission (''SEC'' or the ''Commission'') approved the NYSE MKT Trades data feed and certain fees for it.[4] NYSE MKT Trades is a NYSE MKT-only market data feed that allows a vendor to redistribute on a real-time basis the same last sale information that the Exchange reports under the Consolidated Tape Association (''CTA'') Plan for inclusion in the CTA Plan's consolidated data streams and certain other related data elements. Specifically, NYSE MKT Trades includes the real-time last sale price, time, size, and bid/ask quotations for each security traded on the Exchange and a stock summary message. The stock summary message updates every minute and includes NYSE MKT's opening price, high price, low price, closing price, and cumulative volume for the security.

The Exchange currently charges NYSE MKT Trades data feed recipients an access fee of $750 per month, and a subscriber fee for professional subscribers of $10 per month per device, which may be counted, at the election of the vendor based on the number of ''Subscriber Entitlements'' [5] (collectively, these fees are referred to in this filing as ''NYSE MKT Trades basic fees''). In July 2012, the Exchange added a fee for distribution by television broadcasters (''Broadcast Fee''), which is $5,000 per month.[6] The television broadcast distribution method differs from the other distribution methods in that the data is available in a temporary, view-only mode on television screens. NYSE MKT Trades is not offered in a manner to facilitate its distribution via Web sites or mobile devices.

Proposed Change

The Exchange proposes to offer a new version of NYSE MKT Trades called ''NYSE MKT Trades Digital Media,'' which will include, as with NYSE MKT Trades as currently offered, access to the real-time last sale price, time, and size for each security traded on the Exchange as well as the stock summary message. NYSE MKT Trades Digital Media will not, however, include access to the bid/ask quotation that is included with the current NYSE MKT Trades product under the NYSE MKT Trades basic fees and Broadcast Fee. NYSE MKT Trades will be offered in a new manner that will permit market data vendors, television broadcasters, Web site and mobile device service providers, and others to distribute this data product to their customers for viewing via television, Web site, and mobile devices. Vendors will not be permitted to provide NYSE MKT Trades Digital Media in a context in which a trading or order routing decision can be implemented unless CTA data is available in an equivalent manner, must label the products as NYSE MKT-only data, and must provide a hyperlinked notice similar to the one provided for CTA delayed data.[7]

The Exchange also proposes to establish a Market Data Fee Schedule. The market data fees on the proposed Market Data Fee Schedule for NYSE MKT BBO,[8] NYSE MKT Trades,[9] NYSE MKT RRP,[10] and NYSE MKT Order Imbalances [11] have been previously filed with the Commission. The Exchange is proposing the Market Data Fee Schedule in order to provide greater transparency to its customers.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [12] of the Act, in general, and furthers the objectives of Section 6(b)(5) [13] of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and

[4] *See* Securities Exchange Act Release No. 62187 (May 27, 2010), 75 FR 31500 (June 3, 2010) (SR–NYSEAmex-2010–35).

[5] *See id.* at 31501.

[6] *See* Securities Exchange Act Release No. 67438 (July 13, 2012), 77 FR 42535 (July 19, 2012) (SR–NYSEMKT–2012–19).

[7] These are requirements that currently apply to NYSE MKT Realtime Reference Prices (''NYSE MKT RRP''), a separate last sale product that also is offered for use in a non-trading environment. *See* Securities Exchange Act Release Nos. 61144 (Dec. 10, 2009), 74 FR 67275, 67276–77 (Dec. 18, 2009) (SR–NYSEAmex-2009–85); 61403 (Jan. 22, 2010), 75 FR 4598 (Jan. 28, 2010) (SR–NYSEAmex-2009–85). The Exchange also intends to offer NYSE MKT RRP in the future as NYSE MKT RRP Digital Media, but there will be no substantive change to the NYSE MKT RRP product elements, only the permitted distribution channels. The Exchange will propose pricing for NYSE MKT Trades Digital Media and NYSE MKT RRP Digital Media in a separate filing.

[8] *See supra* note 4.

[9] *See supra* notes 4, 6.

[10] *See* Securities Exchange Act Release No. 61403 (Jan. 22, 2010), 75 FR 4598 (Jan. 28, 2010) (SR–NYSEAmex-2009–85).

[11] *See* Securities Exchange Act Release No. 60385 (July 24, 2009), 74 FR 38249 (July 31, 2009) (NYSEAmex-2009–26).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and it is not designed to permit unfair discrimination among customers, brokers, or dealers.

The Exchange is offering the NYSE MKT Trades Digital Media data product in recognition of the demand for a more seamless and easier-to-administer data distribution model that takes into account the expanded variety of media and communication devices that investors utilize today. For example, a television broadcaster could display the NYSE MKT Trades Digital Media data during market-related television programming and on its Web site and allow its viewers to view the data via their mobile devices, creating a more seamless distribution model that will allow investors more choice in how they receive and view market data. Because the product is intended for use in a non-trading environment, the Exchange will not include a bid/ask quotation as a product element. Market participants that still wish to obtain bid/ask quotations can do so by paying the NYSE MKT Trades basic fees. The Exchange believes that establishing the Market Data Fee Schedule will provide greater transparency for the Exchange's customers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that the data products proposed herein are precisely the sort of market data products that the Commission envisioned when it adopted Regulation NMS. The Commission concluded that Regulation NMS—by lessening regulation of the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[14]

By removing ''unnecessary regulatory restrictions'' on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative history.

The Exchange further notes that the existence of alternatives to the Exchange's products, including real-time consolidated data, free delayed consolidated data, and proprietary data from other sources, ensures that the Exchange is not unreasonably discriminatory because vendors and subscribers can elect these alternatives.

The proposed data product will remove impediments to and help perfect a free and open market by permitting the Exchange's last sale data to be more widely distributed, thereby benefiting users of the data. In addition, the proposal would not permit unfair discrimination because the product will be available to all of the Exchange's vendors and customers on an equivalent basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities (such as internalizing broker-dealers and various forms of alternative trading systems, including dark pools and electronic communication networks), in a vigorously competitive market. It is common for market participants to further and exploit this competition by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market.

[14] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

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: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)[15] of the Act and Rule 19b–4(f)(6) thereunder.[16]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[17] However, Rule 19b–4(f)(6)(iii)[18] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Exchange believes that the proposed rule change will make the Exchange's last sale data more widely available through more distribution channels, which will enable investors to better monitor trading activity on the Exchange, and thereby serve the public interest. The Exchange also notes that other exchanges already offer similar products, and thus believes that the Exchange's proposed products will enhance competition. The Exchange believes that expanding distribution channels and offering a new version of the product for use in a non-trading environment will benefit investors. The Commission believes that permitting the Exchange to offer this product without delay is consistent with the protection of investors and the public interest. Accordingly, the Commission

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] *Id.*

designates the proposed rule change to be operative upon filing.[19]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2013–30 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–2013–30. 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–NYSEMKT–2013–30 and should be submitted on or before April 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–08095 Filed 4–5–13; 8:45 am]

BILLING CODE 8011–01–P

[19] For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69280; File No. SR–BX–2013–029]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change Relating to Board of Director Qualifications

April 2, 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 27, 2013, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend By-Law Article IV, Section 4.3 to amend the calculation of Non-Industry Directors in the Exchange's By-Laws with respect to Qualification of Board Members.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change 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 this filing is to amend BX By-Law Article IV, Section 4.3 entitled ''Qualifications'' to amend the number of Public Directors[3] required to be included in the calculation of Non-Industry Directors[4] from three Public Directors to one Public Director for purposes of determining the number of Non-Industry Directors that may serve on the Exchange board. The Exchange recently filed to amend its By-Laws because the Boston Options Exchange LLC (''BOX'') ceased to operate as an options trading facility of the Exchange[5] and terminated the Regulatory Services Agreement (''RSA'') between BX and BOX effective June 1, 2012.[6] In that filing the Exchange noted that the BOX Trading Rules will no longer be operative to permit options trading on

[3] Pursuant to BX By-Law Article I(gg) a Public Director is a Director who has no material business relationship with a broker or dealer, the Corporation or its affiliates, or FINRA.

[4] Pursuant to BX By-Law Article I(bb) a Non-Industry Director is a Director (excluding Staff Directors) who is (i) a Public Director; (ii) an officer or employee of an issuer of securities listed on the Exchange; or (iii) any other individual who would not be an Industry Director.

[5] BOX was a facility of the Exchange under Section 39(a)(2) of the Act. *See* Securities Exchange Act Release Nos. 49066 (January 13, 2004), 69 FR 2773 (January 20, 2004) (SR–BSE–2003–17); 49065 (January 13, 2004), 69 FR 2768 (January 20, 2004) (SR–BSE–2003–04) (''BOXR Order''); and 49068 (January 13, 2004), 69 FR 2775 (January 20, 2004) (SR–BSE–2002–15). *See also* Release No. 58324; 73 FR 46936 (August 7, 2008) (File Nos. SR–BSE–2008–02; SR–BSE–2008–23; SR–BSE–2008–25; SR–BSECC–2008–01) (''Order Approving the Acquisition of the Boston Stock Exchange, Incorporated by The NASDAQ OMX Group, Inc.'').

[6] The RSA specified, among other matters, that BX would terminate its responsibility for fulfilling certain obligations and cease performing certain regulatory functions as of the effective date of June 1, 2012, or sooner if BOX satisfies all of the conditions required for BOX to operate as a national securities exchange (''the facility termination effective date'').

BX as of the facility termination effective date.[7] At that time, the Exchange filed to amend its By-Laws to remove references to BOX which were no longer necessary.[8] Specifically, Article I of the BX By-Laws was amended to reflect that BOX will no longer be a facility of the Exchange and Article IV, Section 4.3(a) regarding qualifications for the Board of Directors was amended to remove the requirement that one Industry Director shall represent BOX Participants, because the Exchange explained those provisions were no longer needed.[9] The Exchange also separately filed to dissolve the BOX Committee of the BX Board of Directors.[10]

At the time the Exchange filed to remove BOX references from its By-Laws and dissolve the BOX Committee, the Exchange inadvertently did not amend its By-Laws to correct the number of Public Directors required to be included in the calculation of Non-Industry Directors for purposes of determining the number of Non-Industry Directors that may serve on the Exchange board. Section 4.3 currently states, ''* * * The number of non-Industry Directors, including at least three Public Directors and at least one Director representative of issuers and investors shall equal or exceed the sum of the number of Industry Directors [11] and Member Representative Directors.'' [12] The number of Public Directors was set at three directors to accommodate the additional interests of the BOX Industry Director and the BOX Committee [13] that were also proposed to be part of the new Boston Stock Exchange board at that time.

The Exchange proposes to amend its By-Laws similar to the By-Laws of NASDAQ OMX PHLX LLC (''Phlx'') which requires the number of Non-Industry Directors, including at least one Public Director and at least one Director representative of issuers and investors shall equal or exceed the sum of the number of Industry Directors and Member Representative Directors * * *'' [14] Also, The NASDAQ Stock Market LLC (''NASDAQ'') requires the number of Non-Industry Directors, including at least one Public Director and at least one issuer representative (or if the Board consists of ten or more Directors, at least two issuer representatives), shall equal or exceed the sum of the number of Industry Directors and Member Representative Directors.[15] The amendment reflects the recent elimination of BOX representatives from the Board and the reduction of the number of Public Directors from the computation of qualifying Non-Industry Directors is consistent with the removal of the BOX representatives from the Board. Today, notwithstanding the increased number of Public Directors in the Non-Industry director calculation, the Exchange meets the requirements of the Non-Industry Director requirement in By-Law Article IV, Section 4.13.

The Exchange's annual meeting will take place on or around the end of May 2013. The Exchange anticipates utilizing the revised Non-Industry Director calculation for the upcoming election of directors. The Exchange does not believe that this calculation will impact the board composition as twenty percent of the Directors will continue to be Member Representative Directors as required in By-Law Article IV, Section 4.3(a). Also, the Board will continue to have three Public Directors serving on the Regulatory Oversight Committee as required by By-Law Article IV, Section 4.13. The requirement that the number of Non-Industry Directors equal or exceed the sum of Industry Directors and Member Representative Directors will continue to be met, but only one Public Director will be included in the calculation similar to Phlx and NASDAQ.[16]

2. Statutory Basis

BX believes that its proposal to amend BX Article IV, Section 4.3 entitled ''Qualifications'' to correct the number of Public Directors required to be included in the calculation of Non-Industry Directors that are permitted to serve on the Exchange Board is consistent with Section 6 of the Act,[17] in general, and with Sections 6(b)(1) and (b)(5) of the Act,[18] in particular, in that the proposal enable BX to be so organized and to have the capacity to be able to carry out the purposes of the Act and to comply with and enforce compliance by members with provisions of the Act, the rules and regulations thereunder, BX rules, and 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,

[7] *See* Securities Exchange Act Release No. 67009 (May 17, 2012), 77 FR 30566 (May 23, 2012) (SR–BX–2012–036).

[8] *Id.*

[9] *Id.* In addition, By-Law Article IV, Section 4.14, entitled Committees Not Composed Solely of Directors, was amended to remove the manner in which an Industry Director who is a representative of BOX Participants is nominated to the Board as it is no longer needed.

[10] *See* Securities Exchange Act Release No. 67102 (June 4, 2012), 77 FR 34107 (June 8, 2012) (SR–BX–2012–039). After The NASDAQ OMX Group, Inc. acquired the Boston Stock Exchange, Inc., the Exchange adopted resolutions to establish a committee of its Board of Directors, referred to as the BOX Committee. *See* Securities Exchange Act Release No. 58324 (August 7, 2008); 73 FR 46936 (August 12, 2008) (File Nos. SR–BSE–2008–02; SR–BSE–2008–23; SR–BSE–2008–25; SR–BSECC–2008–01) (''Order approving the Acquisition of the Boston Stock Exchange, Incorporated by The NASDAQ OMX Group, Inc.'').

[11] Pursuant to BX By-Law Article I(t) an Industry Director is a Director (excluding any two officers of the Corporation, selected at the sole discretion of the Board, amongst those officers who may be serving as Directors (the ''Staff Directors'')), who (i) is or has served in the prior three years as an officer, director, or employee of a broker or dealer, excluding an outside director or a director not engaged in the day-to-day management of a broker or dealer; (ii) is an officer, director (excluding an outside director), or employee of an entity that owns more than ten percent of the equity of a broker or dealer, and the broker or dealer accounts for more than five percent of the gross revenues received by the consolidated entity; (iii) owns more than five percent of the equity securities of any broker or dealer, whose investments in brokers or dealers exceed ten percent of his or her net worth, or whose ownership interest otherwise permits him or her to be engaged in the day-to-day management of a broker or dealer; (iv) provides professional services to brokers or dealers, and such services constitute twenty percent or more of the professional revenues received by the Director or twenty percent or more of the gross revenues received by the Director's firm or partnership; (v) provides professional services to a director, officer, or employee of a broker, dealer, or corporation that owns fifty percent or more of the voting stock of a broker or dealer, and such services relate to the director's, officer's, or employee's professional capacity and constitute twenty percent or more of the professional revenues received by the Director or twenty percent or more of the gross revenues received by the Director's firm or partnership; or (vi) has a consulting or employment relationship with or provides professional services to the Corporation or any affiliate thereof or to FINRA or has had any such relationship or provided any such services at any time within the prior three years.

[12] Pursuant to BX By-Law Article I(x) a Member Representative Director is a Director who has been elected by the stockholders after having been nominated by the Member Nominating Committee or voted upon by Exchange Members pursuant to these By-Laws (or elected by the stockholders without such nomination or voting in the case of the Member Representative Directors elected pursuant to Section 4.3(b)). A Member Representative Director may, but is not required to be, an officer, director, employee, or agent of an Exchange Member.

[13] An independent committee of the Exchange's Board of Governors that reviewed BOX rule changes and certain other BOX-related regulatory matters. *See* Securities Exchange Act Release No. 34–58324 (August 7, 2008); 73 FR 46936 (August 12, 2008) (File Nos. SR–BSE–2008–02; SR–BSE–2008–23; SR–BSE–2008–25; SR–BSECC–2008–01. *See also* Securities Exchange Act Release No. 67102 (June 4, 2012), 77 FR 34107 (June 8, 2012) (SR–BX–2012–039).

[14] *See* Phlx By-Law Article III, Section 3–2(a).

[15] *See* NASDAQ By-Law Article III, Section 2(a).

[16] BX confirmed that BX will continue to have at least three Public Directors on its Board of Directors, as required by its By-Laws, because the BX Regulatory Oversight Committee must consist of three Public Directors. *See* email from Angela Dunn, BX, to Adam Moore, Special Counsel, and Dhawal Sharma, Attorney Advisor, Division of Trading and Markets, Commission, dated March 29, 2013.

[17] 15 U.S.C. 78f.

[18] 15 U.S.C. 78f(b)(1), (5).

settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The composition and selection of the BX Board of Directors will continue to satisfy the requirement in Section 6(b)(3) of the Act [19] that the rules of the Exchange provide for the fair representation of members in the selection of directors and administration of the Exchange. The Exchange believes that its By-Laws continue to assure fair representation of the Exchange's members in the selection of its directors and administration of its affairs and provide that, among other things, one or more directors shall be representative of investors and not be associated with the exchange, or with a broker or dealer. Twenty percent of the Directors will continue to be Member Representative Directors as required by BX Article IV, Section 4.3(a).

The number of Public Directors that are required to be included in the calculation of Non-Industry Directors will be the same as the number required on the Phlx and NASDAQ Boards.[20] The BX board requirements today are otherwise similar to the requirements at Phlx and NASDAQ. The Exchange believes that this proposal is consistent with the previous filing which eliminated BOX related references from its By-Laws.[21] The number of Public Directors in the Non-Industry Director calculation was directly related to the BX Board composition with BOX representation and the elimination of the BOX representation from the BX Board no longer necessitates the increased number of Public Directors. The Exchange believes that amending the By-Laws to reflect a similar board composition to NASDAQ and Phlx would continue to assure fair representation of the Exchange's members in the selection of its directors and administration of its affairs.

B. Self-Regulatory Organization's Statement on Burden on Competition

BX does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. This proposal will continue to provide for the fair representation of members in the selection of directors and administration of the Exchange. The amendment to amend By-Law Article IV, Section 4.3 to modify the number of Public Directors in the Non-Industry calculation is similar to by-laws on other exchanges.[22]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2013–029 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2013–029. 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 offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2013–029, and should be submitted on or before April 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–08099 Filed 4–5–13; 8:45 am]

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[19] 15 U.S.C. 78f(b)(3).

[20] *See* Phlx By-Law Article III, Section 3–2(a) and NASDAQ By-Law Article III, Section 2(a).

[21] *See* note 7.

[22] *See* Phlx By-Law Article III, Section 3–2(a) and NASDAQ By-Law Article III, Section 2(a).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69278; File No. SR–NYSE–2013–25]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Non-Display Usage Fees for NYSE OpenBook, NYSE Trades, and NYSE BBO and a Redistribution Fee for NYSE OpenBook

April 2, 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 21, 2013, New York Stock Exchange LLC (''NYSE'' or 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 self-regulatory organization. The Commission is publishing this notice to

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish non-display usage fees for NYSE OpenBook, NYSE Trades, and NYSE BBO and a redistribution fee for NYSE OpenBook, all of which will be operative on April 1, 2013. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish non-display usage fees for NYSE OpenBook, NYSE Trades, and NYSE BBO and a redistribution fee for NYSE OpenBook, all of which will be operative on April 1, 2013. The subsections below describe (1) the background on the current fees for these real-time products; (2) the rationale for creating a new non-display usage fee structure; (3) the proposed fees for non-display use, which will include internal non-display use and managed non-display use; (4) the proposed redistribution fee for NYSE OpenBook; (5) examples comparing the current and proposed fees; and (6) a correction to the Market Data Fee schedule.

Background on Current Fees

The current monthly fees for NYSE OpenBook,[4] NYSE BBO,[5] and NYSE Trades [6] are as follows:

Product	Access Fee	Subscriber Fees	Digital Media Enterprise Fee	Redistribution Fee
NYSE OpenBook [7]	$5,000	Professional: $60 Non-professional: $15 Non-professional Fee Cap: $25,000.	N/A	N/A.
NYSE BBO	1,500	Professional: $15 Non-professional: $5	N/A	N/A.
NYSE Trades	[8] 1,500	Professional: $15	$40,000	$1,000 (operative May 1, 2013).

While the majority of subscribers pay the subscriber fee for each display or non-display device that has access to the market data products as set forth above, a small number of vendors and subscribers are eligible for, and have elected, the NYSE Unit-of-Count Policy that was first introduced as an NYSE OpenBook pilot in 2009 and is now also available for NYSE BBO and NYSE Trades.[9] Under this fee structure, these vendors and subscribers are subject to a fee structure that utilizes the following basic principles:

i. Vendors.

• ''Vendors'' are market data vendors, broker-dealers, private network providers, and other entities that control Subscribers' access to a market data product through Subscriber Entitlement Controls (as described below).

ii. Subscribers.

• ''Subscribers'' are unique individual persons or devices (which include both display and non-display devices) to which a Vendor provides a market data product. Any individual or device that receives the market data product from a Vendor is a Subscriber, whether the individual or device works for or belongs to the Vendor, or works for or belongs to an entity other than the Vendor.

• Only a Vendor may control Subscriber access to the market data product.

• Subscribers may not redistribute the market data product in any manner.

iii. Subscriber Entitlements.

• A Subscriber Entitlement is a Vendor's permitting a Subscriber to receive access to the market data product through an Exchange-approved Subscriber Entitlement Control.

• A Vendor may not provide access to a market data product to a Subscriber except through a unique Subscriber Entitlement.

• The Exchange will require each Vendor to provide a unique Subscriber Entitlement to each unique Subscriber.

• At prescribed intervals (normally monthly), the Exchange will require each Vendor to report each unique Subscriber Entitlement.

iv. Subscriber Entitlement Controls.

• A Subscriber Entitlement Control is the Vendor's process of permitting Subscribers' access to a market data product.

• Prior to using any Subscriber Entitlement Control or changing a previously approved Subscriber Entitlement Control, a Vendor must provide the Exchange with a demonstration and a detailed written description of the control or change and the Exchange must have approved it in writing.

• The Exchange will approve a Subscriber Entitlement Control if it allows only authorized, unique end-users or devices to access the market data product or monitors access to the market data product by each unique end-user or device.

• Vendors must design Subscriber Entitlement Controls to produce an audit report and make each audit report available to the Exchange upon request. The audit report must identify:

• Each entitlement update to the Subscriber Entitlement Control;

[4] *See* Securities Exchange Act Release Nos. 59544 (Mar. 9, 2009), 74 FR 11162 (Mar. 16, 2009) (SR–NYSE–2008–131) and 62038 (May 5, 2010), 75 FR 26825 (May 12, 2010) (SR–NYSE–2010–22).

[5] *See* Securities Exchange Act Release No. 62181 (May 26, 2010), 75 FR 31488 (June 3, 2010) (SR–NYSE–2010–30).

[6] *See* SR–NYSE–2013–24.

[7] The NYSE OpenBook Bundle pricing package includes: (i) NYSE OpenBook Realtime, by which the Exchange makes NYSE OpenBook Realtime available on a snapshot basis, with updates distributed in real-time at intervals of one second; and (ii) NYSE OpenBook Ultra, by which the Exchange updates NYSE OpenBook information upon receipt of each displayed limit order, or upon an event that removes limit orders from NYSE OpenBook (*i.e.,* cancellation or execution). For no additional charge, the Exchange makes available to recipients of NYSE OpenBook additional data feeds containing NYSE BBO and Order Imbalance Information. *See* Securities Exchange Act Release No. 59544 (Mar. 9, 2009), 74 FR 11162 (Mar. 16, 2009) (SR–NYSE–2008–131).

[8] One $1,500 monthly access fee entitles a vendor to receive both the NYSE BBO data feed as well as the Exchange's NYSE Trades data feed. *See supra* n.5.

[9] *See* Securities Exchange Act Release Nos. 62038 (May 5, 2010), 75 FR 26825 (May 12, 2010) (SR–NYSE–2010–22); 62181 (May 26, 2010), 75 FR 31488 (June 3, 2010) (SR–NYSE–2010–30); and 59290 (Jan. 23, 2009), 74 FR 5707 (Jan. 30, 2009) (SR–NYSE–2009–05).

• The status of the Subscriber Entitlement Control; and
• Any other changes to the Subscriber Entitlement Control over a given period.
• Only the Vendor may have access to Subscriber Entitlement Controls.

Vendors must count every Subscriber Entitlement, whether it be an individual person or a device. Thus, the Vendor's count would include every person and device that accesses the data regardless of the purpose for which the individual or device uses the data.

Vendors must report all Subscriber Entitlements in accordance with the following:

i. In connection with a Vendor's external distribution of the market data product, the Vendor should count as one Subscriber Entitlement each unique Subscriber that the Vendor has entitled to have access to the market data product. However, where a device is dedicated specifically to a single individual, the Vendor should count only the individual and need not count the device.

ii. In connection with a Vendor's internal distribution of a market data product, the Vendor should count as one Subscriber Entitlement each unique individual (but not devices) that the Vendor has entitled to have access to such market data.

iii. The Vendor should identify and report each unique Subscriber. If a Subscriber uses the same unique Subscriber Entitlement to gain access to multiple market data services, the Vendor should count that as one Subscriber Entitlement. However, if a unique Subscriber uses multiple Subscriber Entitlements to gain access to one or more market data services (*e.g.,* a single Subscriber has multiple passwords and user identifications), the Vendor should report all of those Subscriber Entitlements.

iv. Vendors should report each unique individual person who receives access through multiple devices as one Subscriber Entitlement so long as each device is dedicated specifically to that individual.

v. The Vendor should include in the count as one Subscriber Entitlement devices serving no entitled individuals. However, if the Vendor entitles one or more individuals to use the same device, the Vendor should include only the entitled individuals, and not the device, in the count.

Rationale for New Non-Display Usage Fee Structure

As noted in the original NYSE Unit-of-Count Policy proposal, ''technology has made it increasingly difficult to define 'device' and to control who has access to devices, [and] the markets have struggled to make device counts uniform among their customers.'' [10] Significant change has characterized the industry in recent years, stemming in large measure from changes in regulation and technological advances, which has led to the rise in automated and algorithmic trading. Additionally, market data feeds have become faster and contain a vastly larger number of quotes and trades. Today, a majority of trading is done by leveraging non-display devices consuming massive amounts of data. Some firms base their business models largely on incorporating non-display data into applications and do not require widespread data access by the firm's employees. Changes in market data consumption patterns have increased the use and importance of non-display data.

Applications that can be used in non-display devices provide added value in their capability to manipulate and spread the data they consume. Such applications have the ability to perform calculations on the live data stream and manufacture new data out of it. Data can be processed much faster by a non-display device than it can be by a human being processing information that he or she views on a data terminal. Non-display devices also can dispense data to multiple computer applications as compared with the restriction of data to one display terminal.

While the non-display data has become increasingly valuable to data recipients who can use it to generate substantial profits, it has become increasing difficult for them and the Exchange to accurately count non-display devices. The number and type of non-display devices, as well as their complexity and interconnectedness, have grown in recent years, creating administrative challenges for vendors, data recipients, and the Exchange to accurately count such devices and audit such counts. Unlike a display device, such as a Bloomberg terminal, it is not possible to simply walk through a trading floor or areas of a data recipient's premises to identify non-display devices. During an audit, an auditor must review a firm's entitlement report to determine usage. While display use is generally associated with an individual end user and/or unique user ID, a non-display use is more difficult to account for because the entitlement report may show a server name or Internet protocol (''IP'') address or it may not. The auditor must review each IP or server and further inquire about downstream use and quantity of servers with access to data; this type of counting is very labor-intensive and prone to inaccuracies.

For these reasons, the Exchange determined that its current fee structure, which is based on counting non-display devices, is no longer appropriate in light of market and technology developments and does not reflect the value of the non-display data and its many profit-generating uses for subscribers. As such, the Exchange, in conjunction with its domestic and foreign affiliate exchanges, undertook a review of its market data policies with a goal of bringing greater consistency and clarity to its fee structure; easing administration for itself, vendors, and subscribers; and setting fees at a level that better reflects the current value of the data provided. As a result of this review, the Exchange has determined to offer a new fee structure for display and non-display use of certain market data products. Initially, the Exchange will implement the new non-display use fee structure for NYSE OpenBook, NYSE BBO, and NYSE Trades, operative on April 1, 2013. The Exchange anticipates implementing a new display use fee structure later this year; until such time, existing fees for display use will apply.

Proposed Non-Display Usage Fees

The Exchange proposes to establish new monthly fees for non-display usage, which for purposes of the proposed fee structure will mean accessing, processing or consuming an NYSE data product delivered via direct and/or Redistributor [11] data feeds, for a purpose other than in support of its display or further internal or external redistribution. The proposed non-display fees will apply to the non-display use of the data product as part of automated calculations or algorithms to support trading decision-making processes or the operation of trading platforms (''Non-Display Trading Activities''). They include, but are not limited to, high frequency trading, automated order or quote generation and/or order pegging, or price

[10] *See* Securities Exchange Act Release No. 59544 (Mar. 9, 2009), 74 FR 11162 (Mar. 16, 2009) (SR–NYSE–2008–131). At least one other Exchange also has noted such administrative challenges. In establishing a non-display usage fee for internal distributors of TotalView and OpenView, NASDAQ Stock Market LLC (''NASDAQ'') noted that as ''the number of devices increase, so does the administrative burden on the end customer of counting these devices.'' *See* Securities Exchange Act Release No. 61700 (Mar. 12, 2010), 75 FR 13172 (Mar. 18, 2010) (SR–NASDAQ–2010–034).

[11] ''Redistributor'' means a vendor or any other person that provides an NYSE data product to a data recipient or to any system that a data recipient uses, irrespective of the means of transmission or access.

referencing for the purposes of algorithmic trading and/or smart order routing. Applications and devices that solely facilitate display, internal distribution, or redistribution of the data product with no other uses and applications that use the data product for other non-trading activities, such as the creation of derived data, quantitative analysis, fund administration, portfolio management, and compliance, are not covered by the proposed non-display fee structure and are subject to the current standard per-device fee structure. The Exchange reserves the right to audit data recipients' use of NYSE market data products in Non-Display Trading Activities in accordance with NYSE's vendor and subscriber agreements.

There will be two types of fees, which are described below. The first type of fee is for internal non-display use. The second type of fee is for managed non-display services. The current NYSE Unit-of-Count Policy will no longer apply to any non-display usage.[12]

Proposed Fees for Internal Non-Display Use

The proposed internal non-display use fees will apply to NYSE OpenBook, NYSE BBO, and NYSE Trades. Internal non-display use occurs when a data recipient either manages its own non-display infrastructure and controls the access to and permissioning of the market data product on its non-display applications or when the data recipient's non-display applications are hosted by a third party that has not been approved to provide the managed non-display services as described below.

The fee structure will have three categories, which recognize the different uses for the market data. Category 1 Fees apply where a data recipient's non-display use of real time market data is for the purpose of principal trading. Category 2 Fees apply where a data recipient's non-display use of market data is for the purpose of broker/agency trading, *i.e.,* trading-based activities to facilitate the recipient's customers' business. If a data recipient trades both on a principal and agency basis, then the data recipient must pay both categories of fees. Category 3 Fees apply where a data recipient's non-display use of market data is, in whole or in part, for the purpose of providing reference prices in the operation of one or more trading platforms, including but not limited to multilateral trading facilities, alternative trading systems, broker crossing networks, dark pools, and systematic internalization systems. A data recipient will not be liable for Category 3 Fees for those market data products for which it is also paying Category 1 and/or Category 2 Fees.

The fees for internal non-display use per data recipient organization for each category will be as follows:

Product	Category 1 trading as principal (per month)	Category 2 trading as broker/agency (per month)	Category 3 trading platform (per month)
NYSE OpenBook	$5,000	$5,000	$5,000
NYSE BBO	1,500	1,500	1,500
NYSE Trades	2,000	2,000	2,000

Subscribers to NYSE OpenBook, which includes access to NYSE BBO and NYSE Order Imbalances, are not required to subscribe to these two individual services as part of the non-display activity for these products.[13] Subscribers who are not currently subscribing to NYSE OpenBook Bundle pricing package [14] will be responsible for the individual product licenses for the non-display activity.

For internal non-display use, there will be no reporting requirements regarding non-display device counts, thus doing away with the administrative burdens described above. Data recipients will be required to declare the market data products used within their non-display trading applications by executing an NYSE Euronext Non-Display Usage Declaration.

Proposed Fees for Managed Non-Display Services

The Exchange also proposes to establish fees for managed non-display services for NYSE OpenBook and NYSE Trades. Under the managed non-display service, a data recipient's non-display applications must be hosted by a Redistributor approved by the Exchange, and this Redistributor must manage and control the access to NYSE OpenBook and/or NYSE Trades for these applications and may not allow for further internal distribution or external redistribution of these market data products. The Redistributor of the managed non-display services and the data recipient must be approved under the current NYSE Unit-of-Count policy described above,[15] which will no longer be available for non-display use after the proposed fees are implemented. If a data recipient is receiving NYSE OpenBook and/or NYSE Trades for Non-Display Trading Activities from a Redistributor that is not approved under the NYSE Unit-of-Count policy, then the internal non-display fees described above will apply.

The fees for managed non-display services per data recipient organization will be as follows:

Product	Managed non-display use fee (per month)
NYSE OpenBook	$2,000
NYSE Trades	700

Data recipients will not be liable for managed non-display fees for those market data products for which they pay the internal non-display fee.

Upon request, a Redistributor offering managed non-display services must provide the Exchange with a list of data recipients that are receiving NYSE OpenBook or NYSE Trades through the Redistributor's managed non-display service. Data recipients of the managed non-display service have no additional reporting requirements, thus easing the administrative burdens described above.

NYSE OpenBook Redistribution Fee

The Exchange proposes to establish a monthly redistribution fee of $3,000 for NYSE OpenBook. The Exchange believes that it is reasonable to charge this redistribution fee because vendors receive value from redistributing the

[12] Existing customers that are approved for the NYSE Unit-of-Count Policy for display usage may continue to follow that Policy until the new display fees are implemented.

[13] There is currently a $500/month access fee for the NYSE Order Imbalances data feed.

[14] *See supra* n.7

[15] *See supra* n.9.

data in their business products for their customers.

Examples

Broker-Dealer A obtains NYSE OpenBook directly from the Exchange for internal use and does not fall under the NYSE Unit-of-Count Policy. Broker-Dealer A trades both on a principal and agency basis and has (i) 80 individual persons who use 100 display devices and (ii) 50 non-display devices.

- Under the current fee schedule, Broker-Dealer A pays the Exchange the $5,000 access fee plus $60 for each of the 100 display devices (although 80 individual persons use them, the number of devices is counted), or $6,000, and $60 for each of the 50 non-display devices, or $3,000, for a total of $14,000 per month.
- Under the proposed fee schedule, Broker-Dealer A would pay the Exchange the $5,000 access fee plus $60 for each of the 100 display devices, or $6,000, and Category 1 and Category 2 fees for internal non-display use, or $10,000, for a total of $21,000 per month. No redistribution fee would be charged.

Broker-Dealer B, which only trades as principal, obtains NYSE OpenBook from Vendor X. Broker-Dealer B and Vendor X are both approved for the NYSE Unit-of-Count Policy. Broker-Dealer B has (i) 10 individual persons who use 12 display devices and (ii) 5 non-display devices.

- Under the current fee schedule, Vendor X pays the $5,000 access fee and Broker-Dealer B pays $900 ($60 for the 10 individual persons (under the NYSE Unit-of-Count Policy, the larger number of display devices is not counted), or $600, plus $60 for each of the 5 non-display devices, or $300).
- Under the proposed fee schedule, Broker-Dealer B would pay $600 as it does today for its individual persons using display devices, and $2,000 for managed non-display use, for a total of $2,600 per month in fees. Vendor X would pay the $5,000 access fee and the $3,000 redistribution fee, for a total of $8,000 per month.

Correction to Market Data Fee Schedule

The Exchange recently created a Market Data Fee Schedule. The Exchange proposes to correct the subscriber fee line for NYSE Trades to reflect that there is only a professional subscriber fee and no non-professional subscriber fee.[16]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[17] in general, and Sections 6(b)(4) and 6(b)(5) of the Act,[18] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

As described in detail in the section ''Rationale for New Non-Display Usage Fee Structure'' above, which is incorporated by reference herein, technology has made it increasingly difficult to define ''device'' and to control who has access to devices. Significant change has characterized the industry in recent years, stemming in large measure from changes in regulation and technological advances, which has led to the rise in automated and algorithmic trading, which have the potential to generate substantial profits. Indeed, data used in a single non-display device running a single trading algorithm can generate large profits. Market data technology and usage has evolved to the point where it is no longer practical, nor fair and equitable, to simply count non-display devices. The administrative costs and difficulties of establishing reliable counts and conducting an effective audit of non-display devices have become too burdensome, impractical, and non-economic for the Exchange, vendors, and data recipients. Rather, the Exchange believes that its proposed flat fee structure for non-display use is reasonable, equitable, and not unfairly discriminatory in light of these developments.

Other exchanges also have established differentiated fees based on non-display usage, including a flat or enterprise fee. For example, NASDAQ professional subscribers pay monthly fees for non-display usage based upon direct access to NASDAQ Level 2, NASDAQ TotalView, or NASDAQ OpenView, which range from $300 per month for customers with one to 10 subscribers to $75,000 for customers with 250 or more subscribers.[19] In addition, NASDAQ OMX PHLX, Inc. (''Phlx'') offers an alternative $10,000 per month ''Non-Display Enterprise License'' fee that permits distribution to an unlimited number of internal non-display subscribers without incurring additional fees for each internal subscriber.[20] The Non-Display Enterprise License covers non-display subscriber fees for all Phlx proprietary direct data feed products and is in addition to any other associated distributor fees for Phlx proprietary direct data feed products. NASDAQ OMX BX, Inc. (''BX'') also offers an alternative non-display usage fee of $16,000 for its BX TotalView data feed.[21] NASDAQ and Phlx also both offer managed non-display data solutions at higher overall fees than the Exchange proposes to charge.[22]

The Exchange also believes that it is reasonable, equitable, and not unfairly discriminatory to charge relatively lower fees for managed non-display services because the Exchange expects that they will generally be used by a small number of Redistributors and data recipients that are currently eligible for the NYSE Unit-of-Count Policy. These data recipients are constrained by whatever applications are available via Redistributors operating in the Exchange's co-location center and other hosted facilities. In comparison, a data recipient that elects internal non-display use is free to use the data in any manner it chooses and create new uses in an unlimited number of non-display devices. The lack of constraint in this regard will make the non-display usage of the data more valuable to such an internal use data recipient.

The proposed redistribution fee for NYSE OpenBook also is reasonable because it is comparable to other redistribution fees that are currently charged by other exchanges.[23] As noted

[16] *See* Securities Exchange Act Release No. 59309 (Jan. 28, 2009) 74 FR 6073 (Feb. 4, 2009) (SR–NYSE–2009–04).

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(4), (5).

[19] *See* NASDAQ Rule 7023(b)(4).

[20] *See* Securities Exchange Act Release No. 68576 (Jan. 3, 2013), 78 FR 1886 (Jan. 9, 2013) (SR–Phlx–2012–145). Alternatively, Phlx charges each professional subscriber $40 per month.

[21] *See* NASDAQ OMX BX Rule 7023(a)(2). Alternatively, BX charges each professional subscriber $40 per month.

[22] NASDAQ established fees for a Managed Data Solution to Distributors, which includes a monthly Managed Data Solution Administration fee of $1,500 and monthly Subscriber fees ranging from $60 to $300. *See* NASDAQ Rule 7026(b). Phlx also established a Managed Data Solution, which includes a monthly Managed Data Solution Administration fee of $1,500 and a monthly Subscriber fee of $250. The monthly License fee is in addition to Phlx's monthly Distributor fee of $2,500 (for external usage), and the $250 monthly Subscriber fee is assessed for each Subscriber of a Managed Data Solution. *See* Securities Exchange Act Release No. 67466 (July 19, 2012), 77 FR 43629 (July 25, 2012) (SR–Phlx–2012–93).

[23] NYSE Arca, Inc. (''NYSE Arca'') charges a $3,000 per month redistribution fee for the NYSE Arca Integrated Feed, which includes depth-of-book data. *See* Securities Exchange Act Release No. 66128 (Jan. 10, 2012), 77 FR 2331 (Jan. 17, 2012) (SR–NYSEArca–2011–96). In addition, NYSE Arca and NYSE MKT LLC (''NYSE MKT'') charge redistribution fees of $2,000 per month for certain proprietary options market data products. *See* Securities Exchange Act Release Nos. 68005 (Oct.

Continued

above, the Exchange believes that it is reasonable to charge redistribution fees because vendors receive value from redistributing the data in their business products for their customers. The redistribution fees also are equitable and not unfairly discriminatory because they will be charged on an equal basis to those vendors that choose to redistribute the data.

The Exchange has not recently raised the market data fees for these three proprietary products. The Exchange set the NYSE OpenBook professional subscriber fee at $60 per device in 2006, the NYSE Trades subscriber fee at $15 per device in 2009, and the NYSE BBO professional subscriber fee at $15 per device in 2010.[24] The Exchange believes that the new fee schedule, which may result in certain vendors and data recipients paying more than they have in the last several years, is fair and reasonable in light of market and technology developments. The current per-device fee structure no longer reflects the significant overall value that non-display data can provide in trading algorithms and other uses that provide professional users with the potential to generate substantial profits. The Exchange believes that it is equitable and not unfairly discriminatory to establish an overall monthly fee that better reflects the value of the data to the data recipients in their profit-generating activities and does away with the burden of counting non-display devices.

The Exchange also notes that products described herein are entirely optional. Firms are not required to purchase NYSE OpenBook, NYSE BBO, or NYSE Trades. Firms have a wide variety of alternative market data products from which to choose.[25] Moreover, the Exchange is not required to make these proprietary data products available or to offer any specific pricing alternatives to any customers.

The decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010), upheld reliance by the Securities and Exchange Commission (''Commission'') upon the existence of competitive market mechanisms to set reasonable and equitably allocated fees for proprietary market data:

In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.'

Id. at 535 (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 323). The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [26]

As explained below in the Exchange's Statement on Burden on Competition, the Exchange believes that there is substantial evidence of competition in the marketplace for data and that the Commission can rely upon such evidence in concluding that the fees established in this filing are the product of competition and therefore satisfy the relevant statutory standards.[27] In addition, the existence of alternatives to these data products, such as proprietary last sale data from other sources, as described below, further ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect such alternatives.

As the *NetCoalition* decision noted, the Commission is not required to undertake a cost-of-service or ratemaking approach, and the Exchange incorporates by reference into this proposed rule change its affiliate's analysis of this topic in another rule filing.[28]

For these reasons, the Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory.

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. An exchange's ability to price its proprietary data feed products is constrained by actual competition for the sale of proprietary market data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange's proprietary last sale data.

The Existence of Actual Competition. The market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary for the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with each other for listings and order flow and sales of market data itself, providing virtually limitless opportunities for entrepreneurs who wish to compete in any or all of those areas, including producing and distributing their own market data. Proprietary data products are produced and distributed by each individual exchange, as well as other entities, in a vigorously competitive market.

Competitive markets for listings, order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products and therefore constrain markets from overpricing proprietary market data. The U.S. Department of Justice also has acknowledged the aggressive competition among exchanges, including for the sale of proprietary market data itself. In announcing that the bid for NYSE Euronext by NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. had been abandoned, Assistant Attorney General Christine Varney stated that exchanges ''compete head to head to offer real-time equity data products. These data products include the best bid and offer of every exchange and information on each equity trade, including the last sale.'' [29]

It is common for broker-dealers to further exploit this recognized competitive constraint by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market. As a 2010 Commission Concept Release noted, the ''current market structure can be described as dispersed and complex''

9, 2012), 77 FR 63362 (Oct. 16, 2012) (SR–NYSEArca–2012–106), and 68004 (Oct. 9, 2012), 77 FR 62582 (Oct. 15, 2012) (SR–NYSEMKT–2012–49). All distributors of a NASDAQ Last Sale Data Feed also pay a monthly fee of $1,500. *See* NASDAQ Rule 7039(d).

[24] *See* Securities Exchange Act Release Nos. 53585 (March 31, 2006), 71 FR 17934 (April 7, 2006) (SR–NYSE–2004–43 and SR–NYSE–2005–32); 59606 (Mar. 19, 2009), 74 FR 13293 (Mar. 26, 2009) (SR–NYSE–2009–04); and 62181 (May 26, 2010), 75 FR 31488 (June 3, 2010) (SR–NYSE–2010–30).

[25] *See supra* nn.19–22.

[26] *NetCoalition,* 615 F.3d at 535.

[27] Section 916 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the ''Dodd-Frank Act'') amended paragraph (A) of Section 19(b)(3) of the Act, 15 U.S.C. 78s(b)(3), to make clear that all exchange fees for market data may be filed by exchanges on an immediately effective basis.

[28] *See* Securities Exchange Act Release No. 63291 (Nov. 9, 2010), 75 FR 70311 (Nov. 17, 2010) (SR–NYSEArca–2010–97).

[29] Press Release, U.S. Department of Justice, Assistant Attorney General Christine Varney Holds Conference Call Regarding NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. Abandoning Their Bid for NYSE Euronext (May 16, 2011), *available at http://www.justice.gov/iso/opa/atr/speeches/2011/at-speech-110516.html.*

with ''trading volume * * * dispersed among many highly automated trading centers that compete for order flow in the same stocks'' and ''trading centers offer[ing] a wide range of services that are designed to attract different types of market participants with varying trading needs.'' [30]

In addition, in the case of products that are distributed through market data vendors, the market data vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. Internet portals, such as Google, impose price discipline by providing only data that they believe will enable them to attract ''eyeballs'' that contribute to their advertising revenue. Similarly, vendors will not elect to make available the NYSE products described herein unless their customers request them, and customers will not elect to purchase them unless they can be used for profit-generating purposes. All of these operate as constraints on pricing proprietary data products.

Joint Product Nature of Exchange Platform. Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade executions are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platforms where the order can be posted, including the execution fees, data quality, and price and distribution of their data products. The more trade executions a platform does, the more valuable its market data products become.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs. Moreover, an exchange's broker-dealer customers view the costs of transaction executions and market data as a unified cost of doing business with the exchange.

Other market participants have noted that the liquidity provided by the order book, trade execution, core market data, and non-core market data are joint products of a joint platform and have common costs.[31] The Exchange agrees with and adopts those discussions and the arguments therein. The Exchange also notes that the economics literature confirms that there is no way to allocate common costs between joint products that would shed any light on competitive or efficient pricing.[32]

Analyzing the cost of market data product production and distribution in isolation from the cost of all of the inputs supporting the creation of market data and market data products will inevitably underestimate the cost of the data and data products. Thus, because it is impossible to obtain the data inputs to create market data products without a fast, technologically robust, and well-regulated execution system, system costs and regulatory costs affect the price of both obtaining the market data itself and creating and distributing market data products. It would be equally misleading, however, to attribute all of an exchange's costs to the market data portion of an exchange's joint products. Rather, all of an exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

The level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including 12 equities self-regulatory organization (''SRO'') markets, as well as internalizing broker-dealers (''BDs'') and various forms of alternative trading systems (''ATSs''), including dark pools and electronic communication networks (''ECNs''). Competition among trading platforms can be expected to constrain the aggregate return that each platform earns from the sale of its joint products, but different platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platforms may choose to pay rebates to attract orders, charge relatively low prices for market data products (or provide market data products free of charge), and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market data products, and setting relatively low prices for accessing posted liquidity. In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering.

Existence of Alternatives. The large number of SROs, BDs, and ATSs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, ATS, and BD is currently permitted to produce proprietary data products, and many currently do or have announced plans to do so, including but not limited to the Exchange, NYSE MKT, NYSE Arca, NASDAQ OMX, BATS, and Direct Edge.

[30] Concept Release on Equity Market Structure, Securities Exchange Act Release No. 61358 (Jan. 14, 2010), 75 FR 3594 (Jan. 21, 2010) (File No. S7–02–10). This Concept Release included data from the third quarter of 2009 showing that no market center traded more than 20% of the volume of listed stocks, further evidencing the dispersal of and competition for trading activity. *Id.* at 3598.

[31] *See* Securities Exchange Act Release No. 62887 (Sept. 10, 2010), 75 FR 57092, 57095 (Sept. 17, 2010) (SR–Phlx–2010–121); Securities Exchange Act Release No. 62907 (Sept. 14, 2010), 75 FR 57314, 57317 (Sept. 20, 2010) (SR–NASDAQ–2010–110); and Securities Exchange Act Release No. 62908 (Sept. 14, 2010), 75 FR 57321, 57324 (Sept. 20, 2010) (SR–NASDAQ–2010–111) (''all of the exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.''); *see also* August 1, 2008 Comment Letter of Jeffrey S. Davis, Vice President and Deputy General Counsel, NASDAQ OMX Group, Inc., Statement of Janusz Ordover and Gustavo Bamberger (''because market data is both an input to and a byproduct of executing trades on a particular platform, market data and trade execution services are an example of 'joint products' with 'joint costs.' ''), attachment at pg. 4, *available at www.sec.gov/comments/34-57917/3457917-12.pdf.*

[32] *See generally* Mark Hirschey, *Fundamentals of Managerial Economics,* at 600 (2009) (''It is important to note, however, that although it is possible to determine the separate marginal costs of goods produced in variable proportions, it is impossible to determine their individual average costs. This is because common costs are expenses necessary for manufacture of a joint product. Common costs of production—raw material and equipment costs, management expenses, and other overhead—cannot be allocated to each individual by-product on any economically sound basis. * * * Any allocation of common costs is wrong and arbitrary.''). This is not new economic theory. *See, e.g.,* F. W. Taussig, ''A Contribution to the Theory of Railway Rates,'' *Quarterly Journal of Economics* V(4) 438, 465 (July 1891) (''Yet, surely, the division is purely arbitrary. These items of cost, in fact, are jointly incurred for both sorts of traffic; and I cannot share the hope entertained by the statistician of the Commission, Professor Henry C. Adams, that we shall ever reach a mode of apportionment that will lead to trustworthy results.'').

The fact that proprietary data from ATSs, BDs, and vendors can bypass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products. Second, because a single order or transaction report can appear in an SRO proprietary product, a non-SRO proprietary product, or both, the amount of data available via proprietary products is greater in size than the actual number of orders and transaction reports that exist in the marketplace. Because market data users can thus find suitable substitutes for most proprietary market data products,[33] a market that overprices its market data products stands a high risk that users may substitute another source of market data information for its own.

Those competitive pressures imposed by available alternatives are evident in the Exchange's proposed pricing. As noted above, the proposed non-display fees for NYSE OpenBook, NYSE Trades, and NYSE BBO are generally lower than the maximum non-display fees charged by other exchanges such as NASDAQ, Phlx, and BX for comparable products.[34] The proposed redistribution fee for NYSE OpenBook also is comparable to the other exchanges' similar fees.[35]

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid and inexpensive. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TrackECN, BATS Trading and Direct Edge. Today, BATS and Direct Edge provide certain market data at no charge on their Web sites in order to attract more order flow, and use revenue rebates from resulting additional executions to maintain low execution charges for their users.[36]

Further, data products are valuable to certain end users only insofar as they provide information that end users expect will assist them or their customers. The Exchange believes the proposed non-display fees will benefit customers by providing them with a clearer way to determine their fee liability for non-display devices, and with respect to internal use, to obviate the need to count such devices. The Exchange further believes that only vendors that expect to derive a reasonable benefit from redistributing the market data products described herein will choose to become Redistributors and pay the attendant monthly fees.

In establishing the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if its cost to purchase is not justified by the returns any particular vendor or subscriber would achieve through the purchase.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange published draft Data Policies on its Web site on November 20, 2012. Among other things, the Data Policies addressed non-display use for certain market data products. The Exchange solicited comments on the Data Policies in the form of a survey. The Exchange received 14 comments relating to non-display use. Exhibit 2 contains a copy of the notice soliciting comment, the Data Policies, the 14 comments received in alphabetical order, and an alphabetical listing of such comments.

Nine commenters[37] requested greater clarity with respect to the definition and examples of non-display use. Specifically, the commenters requested that the Exchange provide a consistent definition of non-display use. As described above, the definition of non-display use will be accessing, processing or consuming an NYSE data product delivered via direct and/or Redistributor data feeds, for a purpose other than in support of its display or further internal or external redistribution. The Exchange believes that this definition addresses the comments and will clearly describe the types of activities that will qualify for the proposed fee. The Exchange also provided examples for illustrative purposes, which are not exclusive.

Four commenters[38] also questioned whether price referencing, compliance, accounting or auditing activities, and derived data should be considered non-display use. The Data Policies listed price referencing, compliance, accounting or auditing activities, and derived data as examples of non-display usage; however, as discussed above, the Exchange has determined that price referencing for the purposes of algorithmic trading and/or smart order routing would be considered Non-Display Trading Activities, and applications that use the data product for non-trading activities, such as compliance, accounting or auditing activities, and derived data are not covered by the non-display fees and are subject to the current standard per-device fee structure.

Three commenters[39] requested clarity on the NYSE Unit-of-Count Policy for non-display use. As discussed above, the NYSE Unit-of-Count Policy will continue to apply to Redistributors and customers that have been approved under the NYSE Unit-of Count Policy. Under the proposed rule change, the pricing structure for display usage will remain the same. However, for non-display usage, customers approved under the NYSE Unit-of-Count Policy will be eligible for the managed non-display services at the managed non-display fee, which is offered either directly from the Exchange or through a Redistributor.

Two commenters[40] asked for more detail on the managed non-display service, which the Exchange has provided above.

Three commenters[41] asked for examples of how the Exchange would charge for customers that use both display and non-display devices. The Exchange believes that the pricing examples provided above are responsive to this request. One commenter[42] stated that the proposed fees are excessive. The Exchange believes that the proposed fees are reasonable, equitable,

[33] *See supra* nn.19–22.

[34] *Id.*

[35] *See supra* n.23.

[36] This is simply a securities market-specific example of the well-established principle that in certain circumstances more sales at lower margins can be more profitable than fewer sales at higher margins; this example is additional evidence that market data is an inherent part of a market's joint platform.

[37] Barclays, Brown Brothers Harriman, CMC Markets, Deutsche Bank, Flowtraders, Nomura, Threadneedle, Transtrend BV, and UBS.

[38] Barclays, CMC Markets, Transtrend BV, and UBS.

[39] Barclays, Essex Radez LLC, and UBS.

[40] FXCM and RTS Group.

[41] Essex Radez LLC, Fidelity Market Data, and Lloyds TSB Bank plc.

[42] Essex Radez LLC.

and not unfairly discriminatory for the reasons discussed in Section 3(b) above.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [43] of the Act and subparagraph (f)(2) of Rule 19b–4 [44] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [45] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2013–25 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–NYSE–2013–25. 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–NYSE–2013–25 and should be submitted on or before April 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[46]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–08098 Filed 4–5–13; 8:45 am]

BILLING CODE 8011–01–P

[43] 15 U.S.C. 78s(b)(3)(A).

[44] 17 CFR 240.19b–4(f)(2).

[45] 15 U.S.C. 78s(b)(2)(B).

[46] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69269; File No. SR–Phlx–2013–37]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend Its FLEX Option No Minimum Value Size Pilot Program to March 28, 2014

April 2, 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 27, 2013, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Phlx Rule 1079 (FLEX Index, Equity and Currency Options) to extend a pilot program that eliminates minimum value sizes for FLEX index options and FLEX equity options (together known as ''FLEX Options'').[3]

The text of the amended Exchange rule is set forth immediately below.

Additions are *italicized* and deletions are [bracketed].

* * * * *

Rule 1079. FLEX Index, Equity and Currency Options

A Requesting Member shall obtain quotes and execute trades in certain non-listed FLEX options at the specialist post of the non-FLEX option on the Exchange. The term ''FLEX option'' means a FLEX option contract that is traded subject to this Rule. Although FLEX options are generally subject to the rules in this section, to the extent that the provisions of this Rule are inconsistent with other applicable Exchange rules, this Rule takes precedence with respect to FLEX options.

(a)–(f) No Change.

* * * *Commentary:*

.01 Notwithstanding subparagraphs (a)(8)(A)(i) and (a)(8)(A)(ii) above, for a pilot period ending March [29]*28,* [2013]*2014,* there shall be no minimum value size requirements for FLEX options.

* * * * *

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/,* 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In addition to FLEX Options, FLEX currency options are also traded on the Exchange. These flexible index, equity, and currency options provide investors the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices; and may have expiration dates within five years. *See* Rule 1079. FLEX currency options traded on the Exchange are also known as FLEX World Currency Options (''WCO'') or Foreign Currency Options (''FCO''). The pilot program discussed herein does not encompass FLEX currency options.

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 this proposed rule change is to amend Phlx Rule 1079 (FLEX Index, Equity and Currency Options) to extend a pilot program that eliminates minimum value sizes for FLEX Options (the ''Pilot Program'' or ''Pilot'').

Rule 1079 deals with the process of listing and trading FLEX equity, index, and currency options on the Exchange. Rule 1079(a)(8)(A) currently sets the minimum opening transaction value size in the case of a FLEX Option in a newly established (opening) series if there is no open interest in the particular series when a Request-for-Quote (''RFQ'') is submitted (except as provided in Commentary .01 to Rule 1079): (i) $10 million underlying equivalent value, respecting FLEX market index options, and $5 million underlying equivalent value respecting FLEX industry index options;[4] (ii) the lesser of 250 contracts or the number of contracts overlying $1 million in the underlying securities, with respect to FLEX equity options (together the ''minimum value size'').[5]

Presently, Commentary .01 to Rule 1079 states that by virtue of the Pilot Program ending March 29, 2013, there shall be no minimum value size requirements for FLEX Options as noted in subsections (a)(8)(A)(i) and (a)(8)(A)(ii) above.[6]

The Exchange now proposes to extend the Pilot Program for a period ending March 28, 2014.[7]

The Exchange believes that there is sufficient investor interest and demand in the Pilot Program to warrant an extension. The Exchange believes that the Pilot Program has provided investors with additional means of managing their risk exposures and carrying out their investment objectives. Extension of the Pilot Program would continue to provide greater opportunities for traders and investors to manage risk through the use of FLEX Options, including investors that may otherwise trade in the unregulated over the counter (''OTC'') market where similar size restrictions do not apply.[8]

In support of the proposed extension of the Pilot Program, the Exchange has under separate cover submitted to the Commission a Pilot Program Report (''Report'') that provides an analysis of the Pilot Program covering the period during which the Pilot has been in effect. This Report includes: (i) Data and analysis on the open interest and trading volume in (a) FLEX equity options that have an opening transaction with a minimum size of 0 to 249 contracts and less than $1 million in underlying value; (b) FLEX index options that have an opening transaction with a minimum opening size of less than $10 million in underlying equivalent value; and (ii) analysis of the types of investors that initiated opening FLEX Options transactions (*i.e.,* institutional, high net worth, or retail). The Report has been submitted to the Commission on a confidential basis.

If, in the future, the Exchange proposes an additional extension of the Pilot Program, or should the Exchange propose to make the Pilot Program permanent, the Exchange will submit a Report covering the period March 1, 2013, through January 31, 2014, and including the details referenced in the prior paragraph. The Exchange will also provide the nominal dollar value of each trade. The Report would be submitted to the Commission on or before February 28, 2014, unless the Commission agrees otherwise, and would be provided on a confidential basis.

2. Statutory Basis

The Exchange's proposal is consistent with Section 6(b) of the Act[9] in general, and furthers the objectives of Section 6(b)(5) of the Act[10] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system. Specifically, the Exchange believes that the proposed extension of the Pilot Program, which eliminates the minimum value size applicable to FLEX Options, would provide greater opportunities for investors to manage risk through the use of FLEX Options. The Exchange notes that it has not experienced any adverse market effects with respect to the Pilot Program.

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. To the contrary, the proposal would give traders and investors the opportunity to more effectively tailor their trading, investing and hedging through FLEX options traded 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

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12]

[4] Market index options and industry index options are broad-based index options and narrow-based index options, respectively. *See* Rule 1000A(b)(11) and (12).

[5] Subsection (a)(8)(A) also provides a third alternative: (iii) 50 contracts in the case of FLEX currency options. However, this alternative is not part of the Pilot Program.

[6] *See* Securities Exchange Act Release No. 67094 (June 1, 2012), 77 FR 33796 (June 7, 2012)(SR–Phlx–2012–76)(notice of filing and immediate effectiveness of proposal to extend Pilot Program). The Pilot Program was instituted in 2010. *See* Securities Exchange Act Release No. 62900 (September 13, 2010), 75 FR 57098 (September 17, 2010)(SR–Phlx–2010–123)(notice of filing and immediate effectiveness of proposal to institute Pilot Program).

[7] The Exchange notes that any positions established under this Pilot would not be impacted by the expiration of the Pilot. For example, a 10-contract FLEX equity option opening position that overlies less than $1 million in the underlying security and expires in January 2015 could be established during the Pilot. If the Pilot Program were not extended, the position would continue to exist and any further trading in the series would be subject to the minimum value size requirements for continued trading in that series.

[8] The Exchange has not experienced any adverse market effects with respect to the Pilot Program.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange may seamlessly continue its Pilot Program. The Commission notes that waiving the 30-day operative delay would allow the Pilot Program to continue without interruption, and believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[15] Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2013–37 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–2013–37.* 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–Phlx–2013–37 and should be submitted on or before April 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–08090 Filed 4–5–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69272; File No. SR–NYSE–2013–23]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Establishing the NYSE Trades Digital Media Data Feed and a Schedule of the NYSE Proprietary Market Data Fees

April 2, 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 March 20, 2013, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') 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 Substance of the Proposed Rule Change

The Exchange proposes to establish the NYSE Trades Digital Media data feed and a schedule of the NYSE Proprietary Market Data Fees (''Market Data Fee Schedule''). The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish the NYSE Trades Digital Media data feed and a Market Data Fee Schedule.

Background

In 2009, the Securities and Exchange Commission (''SEC'' or the ''Commission'') approved the NYSE Trades data feed and certain fees for it.[4] NYSE Trades is a NYSE-only market data feed that allows a vendor to redistribute on a real-time basis the same last sale information that the

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the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 59606 (Mar. 19, 2009), 74 FR 13293 (Mar. 26, 2009) (SR–NYSE–2009–04).

Exchange reports under the Consolidated Tape Association (''CTA'') Plan for inclusion in the CTA Plan's consolidated data streams and certain other related data elements. Specifically, NYSE Trades includes the real-time last sale price, time, size, and bid/ask quotations for each security traded on the Exchange and a stock summary message. The stock summary message updates every minute and includes NYSE's opening price, high price, low price, closing price, and cumulative volume for the security. The Exchange currently charges NYSE Trades data feed recipients an access fee of $1,500 per month, and a subscriber fee for professional subscribers of $15 per month per device, which may be counted, at the election of the vendor based on the number of ''Subscriber Entitlements'' [5] (collectively, these fees are referred to in this filing as ''NYSE Trades basic fees''). In July 2012, the Exchange added a fee for distribution by television broadcasters (''Broadcast Fee''), which is $40,000 per month.[6] The television broadcast distribution method differs from the other distribution methods in that the data is available in a temporary, view-only mode on television screens. NYSE Trades is not offered in a manner to facilitate its distribution via Web sites or mobile devices.

Proposed Change

The Exchange proposes to offer a new version of NYSE Trades called ''NYSE Trades Digital Media,'' which will include, as with NYSE Trades as currently offered, access to the real-time last sale price, time, and size for each security traded on the Exchange as well as the stock summary message. NYSE Trades Digital Media will not, however, include access to the bid/ask quotation that is included with the current NYSE Trades product under the NYSE Trades basic fees and Broadcast Fee. NYSE Trades will be offered in a new manner that will permit market data vendors, television broadcasters, Web site and mobile device service providers, and others to distribute this data product to their customers for viewing via television, Web site, and mobile devices. Vendors will not be permitted to provide NYSE Trades Digital Media in a context in which a trading or order routing decision can be implemented unless CTA data is available in an equivalent manner, must label the products as NYSE-only data, and must provide a hyperlinked notice similar to the one provided for CTA delayed data.[7]

The Exchange also proposes to establish a Market Data Fee Schedule. The market data fees on the proposed Market Data Fee Schedule for NYSE OpenBook,[8] NYSE BBO,[9] NYSE Trades,[10] NYSE RRP,[11] NYSE Alerts,[12] and NYSE Order Imbalances[13] have been previously filed with the Commission. The Exchange is proposing the Market Data Fee Schedule in order to provide greater transparency to its customers.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [14] of the Act, in general, and furthers the objectives of Section 6(b)(5) [15] of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and it is not designed to permit unfair discrimination among customers, brokers, or dealers.

The Exchange is offering the NYSE Trades Digital Media data product in recognition of the demand for a more seamless and easier-to-administer data distribution model that takes into account the expanded variety of media and communication devices that investors utilize today. For example, a television broadcaster could display the NYSE Trades Digital Media data during market-related television programming and on its Web site and allow its viewers to view the data via their mobile devices, creating a more seamless distribution model that will allow investors more choice in how they receive and view market data. Because the product is intended for use in a non-trading environment, the Exchange will not include a bid/ask quotation as a product element. Market participants that still wish to obtain bid/ask quotations can do so by paying the NYSE Trades basic fees. The Exchange believes that establishing the Market Data Fee Schedule will provide greater transparency for the Exchange's customers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that the data products proposed herein are precisely the sort of market data products that the Commission envisioned when it adopted Regulation NMS. The Commission concluded that Regulation NMS—by lessening regulation of the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[16]

By removing ''unnecessary regulatory restrictions'' on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative history.

The Exchange further notes that the existence of alternatives to the Exchange's products, including real-time consolidated data, free delayed consolidated data, and proprietary data from other sources, ensures that the Exchange is not unreasonably

[5] *See id.* at n.5; Securities Exchange Act Release No. 62038 (May 5, 2010), 75 FR 26825 (May 12, 2010) (SR–NYSE–2010–22).

[6] *See* Securities Exchange Act Release No. 67467 (July 19, 2012), 77 FR 43636 (July 25, 2012) (SR–NYSE–2012–28).

[7] These are requirements that currently apply to NYSE Realtime Reference Prices (''NYSE RRP''), a separate last sale product that also is offered for use in a non-trading environment. *See* Securities Exchange Act Release No. 60004 (May 29, 2009), 74 FR 26905 (June 4, 2009) (SR–NYSE–2009–42). The Exchange also intends to offer NYSE RRP in the future as NYSE RRP Digital Media, but there will be no substantive change to the NYSE RRP product elements, only the permitted distribution channels. The Exchange will propose pricing for NYSE Trades Digital Media and NYSE RRP Digital Media in a separate filing.

[8] *See* Securities Exchange Act Release Nos. 59544 (Mar. 9, 2009), 74 FR 11162 (Mar. 16, 2009) (SR–NYSE–2008–131) and 62038 (May 5, 2010), 75 FR 26825 (May 12, 2010) (SR–NYSE–2010–22).

[9] *See* Securities Exchange Act Release No. 62181 (May 26, 2010), 75 FR 31488 (June 3, 2010) (SR–NYSE–2010–30).

[10] *See supra* notes 4–6.

[11] *See* Securities Exchange Act Release No. 61406 (Jan. 22, 2010), 75 FR 4600 (Jan. 28, 2010) (SR–NYSE–2009–120).

[12] *See* Securities Exchange Act Release No. 50844 (Dec. 13, 2004), 69 FR 76806 (Dec. 22, 2004) (SR–NYSE–2004–53).

[13] *See* Securities Exchange Act Release No. 60153 (June 19, 2009), 74 FR 30656 (June 26, 2009) (SR–NYSE–2009–49).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

discriminatory because vendors and subscribers can elect these alternatives.

The proposed data product will remove impediments to and help perfect a free and open market by permitting the Exchange's last sale data to be more widely distributed, thereby benefiting users of the data. In addition, the proposal would not permit unfair discrimination because the product will be available to all of the Exchange's vendors and customers on an equivalent basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities (such as internalizing broker-dealers and various forms of alternative trading systems, including dark pools and electronic communication networks), in a vigorously competitive market. It is common for market participants to further and exploit this competition by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market.

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: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)[17] of the Act and Rule 19b–4(f)(6) thereunder.[18]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[19] However, Rule 19b–4(f)(6)(iii)[20] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Exchange believes that the proposed rule change will make the Exchange's last sale data more widely available through more distribution channels, which will enable investors to better monitor trading activity on the Exchange, and thereby serve the public interest. The Exchange also notes that other exchanges already offer similar products, and thus believes that the Exchange's proposed products will enhance competition. The Exchange believes that expanding distribution channels and offering a new version of the product for use in a non-trading environment will benefit investors. The Commission believes that permitting the Exchange to offer this product without delay is consistent with the protection of investors and the public interest. Accordingly, the Commission designates the proposed rule change to be operative upon filing.[21]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2013–23 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–NYSE–2013–23. 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–NYSE–2013–23 and should be submitted on or before April 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–08094 Filed 4–5–13; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[20] *Id.*

[21] For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69274; File No. SR–NYSEARCA–2013–30]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Establishing the NYSE Arca Trades Digital Media Data Feed and a Schedule of the NYSE Arca Equities Proprietary Market Data Fees

April 2, 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 22, 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 Substance of the Proposed Rule Change

The Exchange proposes to establish the NYSE Arca Trades Digital Media data feed and a schedule of the NYSE Arca Equities Proprietary Market Data Fees (''Market Data Fee Schedule''). 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish the NYSE Arca Trades Digital Media data feed and a Market Data Fee Schedule.

Background

In 2009, the Securities and Exchange Commission (''SEC'' or the ''Commission'') approved the NYSE Arca Trades data feed and certain fees for it.[4] NYSE Arca Trades is a NYSE Arca-only market data feed that allows a vendor to redistribute on a real-time basis the same last sale information that the Exchange reports under the Consolidated Tape Association (''CTA'') Plan for inclusion in the CTA Plan's consolidated data streams and certain other related data elements. Specifically, NYSE Arca Trades includes the real-time last sale price, time, size, and bid/ask quotations for each security traded on the Exchange and a stock summary message. The stock summary message updates every minute and includes NYSE Arca's opening price, high price, low price, closing price, and cumulative volume for the security.

The Exchange currently charges NYSE Arca Trades data feed recipients an access fee of $750 per month, and a subscriber fee for professional subscribers of $10 per month per device, which may be counted, at the election of the vendor based on the number of ''Subscriber Entitlements'' [5] (collectively, these fees are referred to in this filing as ''NYSE Arca Trades basic fees''). In July 2012, the Exchange added a fee for distribution by television broadcasters (''Broadcast Fee''), which is $20,000 per month.[6] The television broadcast distribution method differs from the other distribution methods in that the data is available in a temporary, view-only mode on television screens. NYSE Arca Trades is not offered in a manner to facilitate its distribution via Web sites or mobile devices.

Proposed Change

The Exchange proposes to offer a new version of NYSE Arca Trades called ''NYSE Arca Trades Digital Media,'' which will include, as with NYSE Arca Trades as currently offered, access to the real-time last sale price, time, and size for each security traded on the Exchange as well as the stock summary message. NYSE Arca Trades Digital Media will not, however, include access to the bid/ask quotation that is included with the current NYSE Arca Trades product under the NYSE Arca Trades basic fees and Broadcast Fee. NYSE Arca Trades will be offered in a new manner that will permit market data vendors, television broadcasters, Web site and mobile device service providers, and others to distribute this data product to their customers for viewing via television, Web site, and mobile devices. Vendors will not be permitted to provide NYSE Arca Trades Digital Media in a context in which a trading or order routing decision can be implemented unless CTA data is available in an equivalent manner, must label the products as NYSE Arca-only data, and must provide a hyperlinked notice similar to the one provided for CTA delayed data.[7]

The Exchange also proposes to establish a Market Data Fee Schedule. The market data fees on the proposed Market Data Fee Schedule for NYSE Arca Integrated Feed,[8] NYSE ArcaBook,[9] NYSE Arca BBO,[10] NYSE Arca Trades,[11] and NYSE Arca RRP [12] have been previously filed with the Commission. The Exchange is proposing the Market Data Fee Schedule in order to provide greater transparency to its customers.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [13] of the

[4] *See* Securities Exchange Act Release No. 59598 (Mar. 18, 2009), 74 FR 12919 (Mar. 25, 2009) (SR–NYSEArca–2009–05).

[5] *See* Securities Exchange Act Release No. 62188 (May 27, 2010), 75 FR 31484 (June 3, 2010) (SR–NYSEArca–2010–23).

[6] *See* Securities Exchange Act Release No. 67436 (July 13, 2012), 77 FR 42529 (July 19, 2012) (SR–NYSEArca–2012–73).

[7] These are requirements that currently apply to NYSE Arca Realtime Reference Prices (''NYSE Arca RRP''), a separate last sale product that also is offered for use in a non-trading environment. *See* Securities Exchange Act Release No. 61404 (Jan. 22, 2010), 75 FR 5363 (Feb. 2, 2010) (SR–NYSEArca–2009–108). The Exchange also intends to offer NYSE Arca RRP in the future as NYSE Arca RRP Digital Media, but there will be no substantive change to the NYSE Arca RRP product elements, only the permitted distribution channels. The Exchange will propose pricing for NYSE Arca Trades Digital Media and NYSE Arca RRP Digital Media in a separate filing.

[8] *See* Securities Exchange Act Release No. 66128 (Jan. 10, 2012), 77 FR 2331 (Jan. 17, 2012) (SR–NYSEArca–2011–96).

[9] *See* Securities Exchange Act Release No. 63291 (Nov. 9, 2010), 75 FR 70311 (Nov. 17, 2010) (SR–NYSEArca–2010–97).

[10] *See* Securities Exchange Act Release No. 62188 (May 27, 2010), 75 FR 31484 (June 3, 2010) (SR–NYSEArca–2010–23).

[11] *See supra* notes 4–6.

[12] *See* Securities Exchange Act Release No. 61404 (Jan. 22, 2010), 75 FR 5363 (Feb. 2, 2010) (SR–NYSEArca–2009–108).

[13] 15 U.S.C. 78f(b).

Act, in general, and furthers the objectives of Section 6(b)(5) [14] of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and it is not designed to permit unfair discrimination among customers, brokers, or dealers.

The Exchange is offering the NYSE Arca Trades Digital Media data product in recognition of the demand for a more seamless and easier-to-administer data distribution model that takes into account the expanded variety of media and communication devices that investors utilize today. For example, a television broadcaster could display the NYSE Arca Trades Digital Media data during market-related television programming and on its Web site and allow its viewers to view the data via their mobile devices, creating a more seamless distribution model that will allow investors more choice in how they receive and view market data. Because the product is intended for use in a non-trading environment, the Exchange will not include a bid/ask quotation as a product element. Market participants that still wish to obtain bid/ask quotations can do so by paying the NYSE Arca Trades basic fees. The Exchange believes that establishing the Market Data Fee Schedule will provide greater transparency for the Exchange's customers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that the data products proposed herein are precisely the sort of market data products that the Commission envisioned when it adopted Regulation NMS. The Commission concluded that Regulation NMS—by lessening regulation of the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[15]

By removing ''unnecessary regulatory restrictions'' on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative history.

The Exchange further notes that the existence of alternatives to the Exchange's products, including real-time consolidated data, free delayed consolidated data, and proprietary data from other sources, ensures that the Exchange is not unreasonably discriminatory because vendors and subscribers can elect these alternatives.

The proposed data product will remove impediments to and help perfect a free and open market by permitting the Exchange's last sale data to be more widely distributed, thereby benefiting users of the data. In addition, the proposal would not permit unfair discrimination because the product will be available to all of the Exchange's vendors and customers on an equivalent basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities (such as internalizing broker-dealers and various forms of alternative trading systems, including dark pools and electronic communication networks), in a vigorously competitive market. It is common for market participants to further and exploit this competition by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market.

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: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) [16] of the Act and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[18] However, Rule 19b–4(f)(6)(iii) [19] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Exchange believes that the proposed rule change will make the Exchange's last sale data more widely available through more distribution channels, which will enable investors to better monitor trading activity on the Exchange, and thereby serve the public interest. The Exchange also notes that other exchanges already offer similar products, and thus believes that the Exchange's proposed products will enhance competition. The Exchange believes that expanding distribution channels and offering a new version of the product for use in a non-trading environment will benefit investors. The Commission believes that permitting the Exchange to offer this product without delay is consistent with the protection of investors and the public interest. Accordingly, the Commission

[14] 15 U.S.C. 78f(b)(5).

[15] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] *Id.*

designates the proposed rule change to be operative upon filing.[20]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEARCA–2013–30 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–2013–30. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2013–30 and should be submitted on or before April 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–08096 Filed 4–5–13; 8:45 am]

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[20] For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69270; File No. SR–ISE–2013–28]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Fees and Rebates for Mini Options

April 2, 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 21, 2013, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to amend its Schedule of Fees to establish fees for Mini Options. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

ISE recently amended its rules to allow for the listing of Mini Options on SPDR S&P 500 (''SPY''), Apple, Inc. (''AAPL''), SPDR Gold Trust (''GLD''), Google Inc. (''GOOG'') and Amazon.com Inc. (''AMZN'').[3] In the Mini Options Filing, the Exchange represented to the Commission that ''the current Schedule of Fees is not applicable to Mini Options and that the Exchange will not begin to trade Mini Options without a prior submission of a proposed rule change to adopt transaction fees for Mini Options.''[4] The Exchange is therefore submitting this proposed rule change to establish fees and rebates applicable to Mini Options. This proposal also seeks to adopt a definition for Mini Options in the Preface of the Schedule of Fees, as options overlying ten (10) shares of AAPL, AMZN, GLD, GOOG, and SPY. For purposes of the Exchange's fee schedule, Mini Options in SPY, AAPL, GLD and AMZN are classified as Select Symbols[5] while Mini Options in GOOG is classified as a Non-Select Symbol.[6]

Mini Options have a smaller exercise and assignment value due to the reduced number of shares they deliver as compared to standard option contracts. As such, the Exchange is proposing to adopt per contract fees and rebates that are 1/10th of the fees and rebates for standard option contracts, with some exceptions. Despite the

[3] Mini Options were approved for trading on September 28, 2012. *See* Securities Exchange Act Release No. 67948 (September 28, 2012), 77 FR 60735 (October 4, 2012) (SR–ISE–2012–58) (''Mini Options Filing'').

[4] *Id.*

[5] ''Select Symbols'' are options overlying all symbols listed on the ISE that are in the Penny Pilot Program.

[6] ''Non-Select Symbols'' are options overlying all symbols excluding Select Symbols.

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. The Exchange believes that adopting fees and rebates for Mini Options that are in some cases lower than fees and rebates for standard option contracts, and in other cases the same as for standard option contracts, is appropriate, not unreasonable, not unfairly discriminatory and not burdensome to competition between participants, or between the Exchange and other exchanges that list and trade Mini Options.

A. Regular Order Fees and Rebates for Mini Options

The Exchange proposes to adopt separate tables for fees and rebates applicable to regular orders in Mini Options. The fees and rebates listed in the table below are 1/10th of the fees and rebates currently applicable to regular orders for standard options in classes that overlie SPY, AAPL, GLD, AMZN, and GOOG:

SELECT SYMBOLS

Market participant	Maker rebate/fee	Taker fee	Fee for crossing orders	Fee for responses to crossing orders	PIM break-up rebate	Facilitation and solicitation break-up rebate
Market Maker Plus	($0.010)	$0.032	$0.020	$0.040	N/A	N/A
Market Maker	0.010	0.032	0.020	0.040	N/A	N/A
Non-ISE Market Maker (FarMM)	0.010	0.036	0.020	0.040	($0.025)	($0.015)
Firm Proprietary/Broker-Dealer	0.010	0.033	0.020	0.040	(0.025)	(0.015)
Professional Customer	0.010	0.033	0.020	0.040	(0.025)	(0.015)
Priority Customer	0.000	0.025	0.000	0.040	(0.025)	(0.015)

NON-SELECT SYMBOLS

Market participant	Fee	Fee for crossing orders	Fee for responses to crossing orders
Market Maker	$0.018	$0.018	$0.018
Market Maker (for orders sent by Electronic Access Members)	0.020	0.020	0.020
Non-ISE Market Maker (FarMM)	0.045	0.020	0.045
Firm Proprietary/Broker-Dealer	0.020	0.020	0.020
Professional Customer	0.020	0.020	0.020
Priority Customer	0.000	0.000	0.020

For Mini Options in the Select Symbols, the following maker fees and rebates shall apply: (i) For Market Maker,[7] Non-ISE Market Maker,[8] Firm Proprietary/Broker-Dealer and Professional Customer[9] orders, $0.010 per contract; (ii) for Priority Customer[10] orders, $0.000 per contract; and (iii) for Market Maker Plus[11] orders, a rebate of $0.010 per contract. For Mini Options in the Select Symbols, the following taker fees shall apply: (i) For Market Maker and Market Maker Plus orders, $0.032 per contract; (ii) for Non-ISE Market Maker orders, $0.036 per contract; (iii) for Firm Proprietary/Broker-Dealer and Professional Customer orders, $0.033 per contract; and (iv) for Priority Customer orders, $0.025 per contract.

Additionally, the Exchange proposes to charge Market Maker, Market Maker Plus, Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customers a fee of $0.020 per contract ($0.000 per contract for Priority Customers) for regular Crossing Orders for Mini Options in the Select Symbols, and a fee of $0.040 per contract to all market participants for regular Responses to Crossing Orders for Mini Options in the Select Symbols.

The Exchange also proposes to adopt a rebate of $0.025 per contract for contracts that are submitted to the Price Improvement Mechanism that do not trade with their contra order for Mini Options in the Select Symbols, and a rebate of $0.015 per contract for contracts that are submitted to the Facilitation and Solicited Order Mechanisms that do not trade with their contra order for Mini Options in the Select Symbols except when those contracts trade against pre-existing orders and quotes on the Exchange's orderbook.

For Mini Options in Non-Select Symbols, the following fees shall apply: (i) For Market Maker orders, a fee of $0.018 per contract; (ii) for Market

[7] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* ISE Rule 100(a)(25).

[8] A Non-ISE Market Maker, or Far Away Market Maker (''FarMM''), is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934 registered in the same options class on another options exchange.

[9] A Professional Customer is a person who is not a broker/dealer and is not a Priority Customer.

[10] A Priority Customer is defined in ISE Rule 100(a)(37A) as a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

[11] In order to promote and encourage liquidity in Mini Options in the Select Symbols, the Exchange proposes to adopt a $0.010 per contract rebate to Market Makers if the quotes they sent to the Exchange qualify the Market Maker to become a Market Maker Plus. A Market Maker Plus is a Market Maker who is on the National Best Bid or National Best Offer 80% of the time for series trading between $0.03 and $5.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $5.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium in each of the front two expiration months and 80% of the time for series trading between $0.03 and $5.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $5.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium for all expiration months in that symbol during the current trading month. A Market Maker's single best and single worst overall quoting days each month, on a per symbol basis, is excluded in calculating whether a Market Maker qualifies for this rebate, if doing so will qualify a Market Maker for the rebate.

Maker (for orders sent by Electronic Access Members), Firm Proprietary/Broker-Dealer and Professional Customer orders, a fee of $0.020 per contract; (iii) for Non-ISE Market Maker orders, a fee of $0.045 per contract; and (iv) for Priority Customer orders, a fee of $0.000 per contract.

Additionally, for regular Crossing Orders for Mini Options in Non-Select Symbols, the following fees shall apply: (i) Ct Market Makers, a fee of $0.018 per contract; (ii) for Market Maker (for orders sent by Electronic Access Members), Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customers, a fee of $0.020 per contract; and (iii) for Priority Customers, a fee of $0.000 per contract. For regular Responses to Crossing Orders for Mini Options in Non-Select Symbols, the following fees shall apply: (i) For Market Makers, $0.018 per contract; (ii) for Non-ISE Market Maker, $0.045 per contract; and (iii) for Market Maker (for orders sent by Electronic Access Members), Firm Proprietary/Broker-Dealer, Professional Customer and Priority Customers, a fee of $0.020 per contract.

Further, the Exchange currently charges Primary Market Makers (PMMs) a transaction fee for standard options in Non-Select Symbols when they trade report a Priority Customer or Professional Customer order in accordance with their obligation to provide away market price protection. This fee shall also apply to Mini Options in Non-Select Symbols. On the other hand, for standard options in the Select Symbols, PMMs do not receive a maker rebate nor pay a taker fee when trade reporting. With this proposed rule change, PMMs in Mini Options in the Select Symbols will also not receive a maker rebate nor pay a taker fee when trade reporting.

PMM Linkage Credit

The Exchange also proposes to adopt a $0.020 per contract fee credit to PMMs for execution of Priority Customer orders in Mini Options in Non-Select Symbols [12]—for classes in which it serves as a PMM—that send an Intermarket Sweep Order to other exchanges. This credit will be applied regardless of the transaction fee charged by a destination market. For PMMs executing Priority Customer orders in Mini Options in the Select Symbols, this credit will be equal to the fee charged by the destination market, and for executing Professional Customer orders, the fee credit will be equal to the fee charged by a destination market, but not more than $0.045 per contract.

Credit for Responses to Flash Orders

The Exchange proposes to adopt a $0.020 per contract credit for responses to Flash Orders for Mini Option in Non-Select Symbols when trading against Professional Customers. For Mini Options in the Select Symbols, the per contract fee credit for responses to Flash Orders will be (i) $0.010 per contract when trading against Priority Customers; and (ii) $0.010 per contract when trading against Professional Customers.

Payment for Order Flow

The Exchange proposes to adopt a payment for order flow (PFOF) fee of $0.07 per contract, applicable to Market Makers when trading against Priority Customer orders in Mini Options in Non-Penny Pilot Symbols.[13] The Exchange will not charge a PFOF fee for trading Mini Options in the Select Symbols.

Route-Out Fees

Consistent with Distributive Linkage and pursuant to ISE rules, PMMs have an obligation to address customer [14] orders when there is a better market displayed on another exchange. ISE's PMMs meet this obligation via the use of Intermarket Sweep Orders (''ISOs''). With the costs associated with servicing customer orders that must be executed at another exchange, the Exchange currently charges a fee, at a rate of $0.45 per contract for Professional Customers and $0.35 per contract for Priority Customers, for executions that result from the PMM routing ISOs to another exchange. This fee applies to standard options in all symbols traded on the Exchange. At this time, the Exchange proposes to charge 1/10th of the fee for routing out Mini Options than the fee charged by the Exchange for routing out standard options. Specifically, the Exchange proposes to adopt a route-out fee of $0.045 per contract for Professional Customer orders in Mini Options that are routed out for execution and a fee of $0.035 per contract for Priority Customer orders in Mini Options that are routed out for execution.

B. Complex Order Fees and Rebates for Mini Options

The Exchange proposes to adopt separate tables for fees and rebates applicable to complex orders in Mini Options. The fees and rebates listed in the table below are 1/10th of the fees and rebates currently applicable to complex orders for standard options in classes that overlie SPY, AAPL, GLD, AMZN, and GOOG:

REBATES

Market participant	Rebate for Select Symbols (excluding SPY)	Rebate for SPY	Rebate for Non-select Symbols	Rebate for Priority Customer orders that trade with quotes and orders on the regular orderbook (excluding SPY)	Rebate for Priority Customer orders that trade with quotes and orders on the regular orderbook In SPY	PIM Break-up Rebate for Select Symbols	Facilitation and solicitation Break-up Rebate for Select Symbols
Market Maker	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Non-ISE Market Maker (FarMM)	N/A	N/A	N/A	N/A	N/A	($0.025)	($0.015)
Firm Proprietary/Broker-Dealer	N/A	N/A	N/A	N/A	N/A	(0.025)	(0.015)
Professional Customer	N/A	N/A	N/A	N/A	N/A	(0.025)	(0.015)

[12] This fee credit applies to only GOOG as GOOG is the only Non-Select Symbol approved as a Mini Option.

[13] For the purposes of the PFOF fee noted in the Schedule of Fees, GOOG is a Non-Penny Pilot Symbol because all Non-Select Symbols are Non-Penny Pilot Symbols. Therefore, the PFOF fee proposed in this filing will apply only to Mini Options in GOOG.

[14] Pursuant to ISE Rule 1900(f) of the Distributive Linkage rules, a customer is an individual or organization that is not a broker-dealer.

REBATES—Continued

Market participant	Rebate for Select Symbols (excluding SPY)	Rebate for SPY	Rebate for Non-select Symbols	Rebate for Priority Customer orders that trade with quotes and orders on the regular orderbook (excluding SPY)	Rebate for Priority Customer orders that trade with quotes and orders on the regular orderbook In SPY	PIM Break-up Rebate for Select Symbols	Facilitation and solicitation Break-up Rebate for Select Symbols
Priority Customer Complex ADV 0–39,999	($0.033)	($0.036)	($0.066)	($0.006)	($0.007)	(0.025)	(0.015)
Priority Customer Complex ADV 40,000–74,999	(0.035)	(0.038)	(0.072)	(0.008)	(0.009)	(0.025)	(0.015)
Priority Customer Complex ADV 75,000–124,999	(0.037)	(0.039)	(0.075)	(0.009)	(0.010)	(0.025)	(0.015)
Priority Customer Complex ADV 125,000–224,999	(0.039)	(0.040)	(0.077)	(0.010)	(0.011)	(0.025)	(0.015)
Priority Customer Complex ADV 225,000+	(0.040)	(0.041)	(0.078)	(0.011)	(0.012)	(0.025)	(0.015)
Incremental Priority Customer Complex ADV above 225,000	(0.001)	(0.001)	(0.001)	(0.000)	(0.000)	(0.000)	(0.000)

MAKER FEES

Market Participant	Maker Fee for Select Symbols	Maker Fee for Non-select Symbols	Maker Fee for Select Symbols when trading against Priority Customer (excluding SPY)	Maker Fee for SPY when trading against Priority Customer	Maker Fee for Non-Select symbols when trading against Priority Customer
Market Maker	$0.010	$0.010	$0.039	$0.039	$0.082
Non-ISE Market Maker (FarMM)	0.020	0.020	0.040	0.041	0.084
Firm Proprietary/Broker-Dealer	0.010	0.010	0.040	0.041	0.084
Professional Customer	0.010	0.010	0.040	0.041	0.084
Priority Customer	0.000	0.000	0.000	0.000	0.000

TAKER AND OTHER FEES

Market participant	Taker Fee for Select Symbols (excluding SPY)	Taker Fee for SPY	Taker Fee for Non-Select Symbols	Fee for Crossing Orders (largest leg only)	Fee for Responses to Crossing Orders for Select Symbols	Fee for Responses to Crossing Orders for non-Select Symbols
Market Maker	$0.039	$0.039	$0.082	$0.020	$0.040	$0.082
Non-ISE Market Maker (FarMM)	0.040	0.041	0.084	0.020	0.040	0.084
Firm Proprietary/Broker-Dealer	0.040	0.041	0.084	0.020	0.040	0.084
Professional Customer	0.040	0.041	0.084	0.020	0.040	0.084
Priority Customer	0.000	0.000	0.000	0.000	0.040	$0.000

For complex orders in Mini Options in the Select Symbols and Non-Select Symbols, the following maker fees shall apply: (i) $0.010 per contract for Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders; (ii) $0.020 per contract for Non-ISE Market Maker orders; and (iii) $0.000 per contract for Priority Customer orders. For complex orders in Mini Options in the Select Symbols when trading against Priority Customers (excluding SPY), the following maker fees shall apply: (i) $0.039 per contract for Market Maker orders; (ii) $0.040 for Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders; and (iii) $0.000 per contract for Priority Customer orders. For complex orders in Mini Options in SPY when trading against Priority Customers, the following maker fees shall apply: (i) $0.039 per contract for Market Maker orders; (ii) $0.041 for Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders; and (iii) $0.000 per contract for Priority Customer orders. For complex orders in Mini Options in non-Select Symbols when trading against Priority Customers, the following maker fees shall apply: (i) $0.082 per contract for Market Maker orders; (ii) $0.084 for Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders; and (iii) $0.000 per contract for Priority Customer orders.

For complex orders in Mini Options in the Select Symbols (excluding SPY), the following taker fees shall apply: (i) $0.039 per contract for Market Maker

orders; (ii) $0.040 for Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders; and (iii) $0.000 per contract for Priority Customer orders. For complex orders in Mini Options in SPY, the following taker fees shall apply: (i) $0.039 per contract for Market Maker orders; (ii) $0.041 for Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders; and (iii) $0.000 per contract for Priority Customer orders. For complex orders in Mini Options in non-Select Symbols, the following taker fees shall apply: (i) $0.082 per contract for Market Maker orders; (ii) $0.084 for Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders; and (iii) $0.000 per contract for Priority Customer orders.

Additionally, the Exchange proposes to charge Market Maker, Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customers a fee of: (i) $0.020 per contract ($0.000 per contract for Priority Customers) for Crossing Orders for complex orders in Mini Options; (ii) $0.040 per contract to all market participants for Responses to Crossing Orders for complex orders in Mini Options in the Select Symbols; and (iii) $0.082 per contract for Market Makers ($0.084 per contract for Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customers and $0.000 per contract for Priority Customers) for Responses to Crossing Orders for complex orders in Mini Options in non-Select Symbols).

The Exchange currently provides volume-based tiered rebates for Priority Customer complex orders in the Select Symbols (excluding SPY), in SPY, and in the Non-Select Symbols for standard options when these orders trade with non-Priority Customer orders in the complex order book. The Exchange proposes to extend this rebate program to Mini Options also, as follows:

For Mini Options in Select Symbols (excluding SPY), the Exchange proposes to adopt a base rebate of $0.033 per contract, per leg, for Priority Customer complex orders when these orders trade with non-Priority Customer complex orders in the complex order book. Additionally, members who achieve a certain level of average daily volume (ADV) of executed Priority Customer complex order contracts across all symbols during a calendar month will be provided a rebate of $0.035 per contract, per leg, in these symbols, if a Member achieves an ADV of 40,000 Priority Customer complex order contracts; $0.037 per contract, per leg, in these symbols, if a Member achieves an ADV of 75,000 Priority Customer complex order contracts; $0.039 per contract, per leg, in these symbols, if a Member achieves an ADV of 125,000 Priority Customer complex order contracts; and $0.040 per contract, per leg, in these symbols, if a Member achieves an ADV of 225,000 Priority Customer complex order contracts. Additionally, the Exchange also proposes to adopt a rebate of $0.001 per contract payable for incremental Priority Customer complex order volume when trading against non-Priority Customer complex orders in the complex order book above the highest tier for Mini Options in the Select Symbols (excluding SPY).

For Mini Options in SPY, the Exchange proposes to adopt a base rebate of $0.036 per contract, per leg, for Priority Customer complex orders when these orders trade with non-Priority Customer complex orders in the complex order book. Additionally, members who achieve a certain level of ADV of executed Priority Customer complex order contracts across all symbols during a calendar month will be provided a rebate of $0.038 per contract, per leg, in these symbols, if a Member achieves an ADV of 40,000 Priority Customer complex order contracts; $0.039 per contract, per leg, in these symbols, if a Member achieves an ADV of 75,000 Priority Customer complex order contracts; $0.040 per contract, per leg, in these symbols, if a Member achieves an ADV of 125,000 Priority Customer complex order contracts; and $0.041 per contract, per leg, in these symbols, if a Member achieves an ADV of 225,000 Priority Customer complex order contracts. Additionally, the Exchange also proposes to adopt a rebate of $0.001 per contract payable for incremental Priority Customer complex order volume when trading against non-Priority Customer complex orders in the complex order book above the highest tier for Mini Options in SPY.

For Mini Options in non-Select Symbols, the Exchange proposes to adopt a base rebate of $0.066 per contract, per leg, for Priority Customer complex orders when these orders trade with non-Priority Customer complex orders in the complex order book. Additionally, members who achieve a certain level of average daily volume (ADV) of executed Priority Customer complex order contracts across all symbols during a calendar month will be provided a rebate of $0.072 per contract, per leg, in these symbols, if a Member achieves an ADV of 40,000 Priority Customer complex order contracts; $0.075 per contract, per leg, in these symbols, if a Member achieves an ADV of 75,000 Priority Customer complex order contracts; $0.077 per contract, per leg, in these symbols, if a Member achieves an ADV of 125,000 Priority Customer complex order contracts; and $0.078 per contract, per leg, in these symbols, if a Member achieves an ADV of 225,000 Priority Customer complex order contracts. Additionally, the Exchange also proposes to adopt a rebate of $0.001 per contract payable for incremental Priority Customer complex order volume when trading against non-Priority Customer complex orders in the complex order book above the highest tier for Mini Options in the non-Select Symbols.

Further, the Exchange currently provides volume-based tiered rebates for Priority Customer complex orders in all symbols for standard options when these orders trade against quotes or orders in the regular orderbook. The Exchange proposes to extend this rebate to Mini Options also, as follows:

For Mini Options (excluding SPY), the Exchange proposes to adopt a base rebate of $0.006 per contract, per leg, for Priority Customer complex orders when these orders trade against quotes or orders in the regular orderbook. Additionally, members who achieve a certain level of ADV of executed Priority Customer complex order contracts across all symbols during a calendar month will be provided a rebate of $0.008 per contract, per leg, in these symbols, if a Member achieves an ADV of 40,000 Priority Customer complex order contracts; $0.009 per contract, per leg, in these symbols, if a Member achieves an ADV of 75,000 Priority Customer complex order contracts; $0.010 per contract, per leg, in these symbols, if a Member achieves an ADV of 125,000 Priority Customer complex order contracts; and $0.011 per contract, per leg, in these symbols, if a Member achieves an ADV of 225,000 Priority Customer complex order contracts.

For Mini Options in SPY, the Exchange proposes to adopt a base rebate of $0.007 per contract, per leg, for Priority Customer complex orders when these orders trade against quotes or orders in the regular orderbook. Additionally, members who achieve a certain level of ADV of executed Priority Customer complex order contracts across all symbols during a calendar month will be provided a rebate of $0.009 per contract, per leg, in these symbols, if a Member achieves an ADV of 40,000 Priority Customer complex order contracts; $0.010 per contract, per leg, in these symbols, if a Member achieves an ADV of 75,000 Priority Customer complex order contracts; $0.011 per contract, per leg, in these

symbols, if a Member achieves an ADV of 125,000 Priority Customer complex order contracts; and $0.012 per contract, per leg, in these symbols, if a Member achieves an ADV of 225,000 Priority Customer complex order contracts.

For each of the volume-based tiered rebates noted above, the highest rebate amount achieved by the Member for the current calendar month will apply retroactively to all Priority Customer complex order contracts that trade with non-Priority Customer complex orders in the complex order book executed by the Member during such calendar month, with the exception of the incremental rebate, as noted above. For purposes of these volume-based tiered rebates, volume in standard options and Mini Options will be combined to calculate the tier a Member has reached. Based on the tier achieved, the Member will be rebated for that tier for all the standard options traded at the standard option rebate amount and for all the Mini Options traded at the Mini Option rebate amount.

The Exchange also proposes to adopt a rebate of $0.025 per contract for contracts that are submitted to the Price Improvement Mechanism that do not trade with their contra order for Mini Options in the Select Symbols, and a rebate of $0.015 per contract for contracts that are submitted to the Facilitation and Solicited Order Mechanisms that do not trade with their contra order for Mini Options in the Select Symbols except when those contracts trade against pre-existing orders and quotes on the Exchange's orderbook.

Firm Fee Cap

The Exchange currently has a fee cap program that, subject to certain exclusions noted in the Schedule of Fees, is applicable across all products traded on ISE. Under the fee cap program, the Exchange caps proprietary transaction fees in all products traded on ISE, in the aggregate, at $75,000 per month per Member. All proprietary transactions, including non-ISE market maker transactions, that are part of a crossing transaction are eligible towards the fee cap. Crossing volume from regular and complex orders in Mini Options, such as orders executed in the Facilitation Mechanism, Price Improvement Mechanism, Solicited Order Mechanism, Block Order Mechanism and Qualified Contingent Cross orders in Mini Options, counts towards the fee cap. The Exchange proposes to extend the fee cap to also include proprietary transactions in Mini Options that are part of a crossing transaction.

ISE also currently has a service fee of $0.01 per side on all transactions that are eligible for the fee cap. The service fee applies once a member reaches the fee cap level and applies to every contract side included in and above the fee cap. A member who does not reach the monthly fee cap is not charged the service fee. The service fee is not calculated in reaching the fee cap. Once the fee cap is reached, the service fee applies to both proprietary and other account designations [15] in all ISE products in addition to those transactions that were included in reaching the fee cap. For Mini Options, the Exchange proposes to adopt a service fee of $0.001 per side on all transactions that are eligible for the fee cap.

QCC and Solicitation Rebate

The Exchange currently provides a rebate for Qualified Contingent Cross (''QCC'') orders and Solicitation orders for standard options to further encourage members to submit greater numbers of QCC orders and Solicitation orders to the Exchange. The Exchange proposes to extend that rebate incentive to Mini Options. With this proposed rule change, the Exchange will provide a rebate to members who reach a certain volume threshold in QCC orders and/or Solicitation orders in standard options and Mini Options during a month. Once a Member reaches a volume threshold, the Exchange will provide a rebate to that Member for all of its QCC and Solicitation contracts traded for that month. For purposes of this rebate, volume in standard options and Mini Options will be combined to calculate the tier a Member has reached. Based on the tier achieved, the Member will be rebated for that tier for all the standard options traded at the standard option rebate amount and for all the Mini Options traded at the Mini Option rebate amount, as provided in the following table:

Originating contract sides	Rebate for sandard options	Rebate for Mini Options
0 to 199,999	$0.00	$0.000
200,000 to 499,999	(0.07)	(0.007)
500,000 to 699,999	(0.08)	(0.008)
700,000 to 999,999	(0.09)	(0.009)
1,000,000+	(0.11)	(0.011)

The rebate will be paid to the Member entering a qualifying order, *i.e.,* a QCC order and/or a Solicitation order. The rebate applies to QCC orders and Solicitation orders in all symbols traded on the Exchange. Additionally, the threshold levels are based on the originating side so if an order is broken up and executed with multiple counter parties, all contracts of the originating side will be counted to reach the established threshold levels.

Complex Quoting in GLD

The Exchange currently allows Market Makers to enter quotations for complex order strategies in the complex order book in a limited group of symbols (''Complex Quoting Symbols''), one of which is GLD, a Mini Option class. Given this enhancement to the complex order functionality, and in order to maintain a competitive fee and rebate structure for Priority Customer orders, the Exchange has adopted maker fees that apply to transactions in the complex order book when they interact with Priority Customer orders in options overlying the Complex Quoting Symbols, including GLD. Specifically, the Exchange currently charges a maker fee of $0.39 per contract for standard options in the Complex Quoting Symbols, including GLD. Of all the Complex Quoting Symbols, only GLD is approved for Mini Options trading and therefore, the Exchange proposes to

[15] Other account designations include Prop-firm (Member trading for its own account and clearing in the F range at OCC), Prop-cust (Member trading for its own account and clearing in the C range at OCC), BD-firm (Member trading on behalf of another registered broker/dealer clearing in the F range at OCC), BD-cust (Member trading on behalf of another registered broker/dealer clearing in the C range at OCC), FarMM (Member trading on behalf of another registered broker/dealer clearing in the M range at OCC).

charge a maker fee of $0.039 per contract for Mini Options in GLD for Market Maker, Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders when these orders interact with Priority Customer orders. Priority Customer orders in GLD that trade in the complex order book are not charged a fee and do not receive a rebate when interacting with other Priority Customer orders.

Options Regulatory Fee

The Exchange currently charges an Options Regulatory Fee (''ORF'') of $0.0042 per contract. The ORF is assessed to each member for all options transactions executed or cleared by the member 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, $0.0042 per contract, since, as noted above, the costs to the Exchange to perform the necessary regulatory surveillance programs and procedures for Mini Options are the same as for standard option contracts. As such, the Exchange feels that it is appropriate to charge the ORF at the same rate as the standard option contract.

The Exchange has designated this proposal to be operative on March 18, 2013.

2. Statutory Basis

The Exchange believes that its proposal to amend its Schedule of Fees is consistent with Section 6(b) of the Act [16] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act [17] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities and does not unfairly discriminate between issuers, brokers or dealers.

Regular Order Fees and Rebates for Mini Options

The Exchange has determined to charge fees and provide rebates for regular orders in Mini Options at a rate that is 1/10th the rate of fees and rebates the Exchange currently provides for trading in standard options. The Exchange believes it is reasonable and equitable and not unfairly discriminatory to assess lower fees and rebates to provide market participants an incentive to trade Mini Options on the Exchange. The Exchange believes the proposed fees and rebates are 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, and, as such, levying fees that are 1/10th of what market participants pay today. As for Priority Customers, for the most part, the Exchange does not charge Priority Customers a fee (Priority Customers have traditionally traded options on the Exchange without a fee) and to the extent they pay a transaction fee for trading in standard options, they will continue to pay a transaction fee in Mini Options but at 1/10th the rate they pay for standard options. The Exchange believes charging lower fees, or no fees, to Priority Customer orders attracts that order flow to the Exchange and thereby creates liquidity to the benefit of all market participants who trade on the Exchange. With respect to fees to Non-ISE Market Maker orders, the Exchange believes that charging Non-ISE Market Maker orders a higher rate than the fee charged to Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer regular orders is appropriate and not unfairly discriminatory because Non-ISE Market Makers are not subject to many of the non-transaction based fees that these other categories of membership are subject to, *e.g.,* membership fees, access fees, API/Session fees, market data fees, etc. Therefore, the Exchange believes it is appropriate and not unfairly discriminatory to assess a higher transaction fee to Non-ISE Market Makers because the Exchange incurs costs associated with these types of orders that are not recovered by non-transaction based fees paid by members. With respect to fees for Market Maker orders, the Exchange believes that the price differentiation between the various market participants is appropriate and not unfairly discriminatory because Market Makers have different requirements and obligations to the Exchange that the other market participants do not (such as quoting requirements and paying membership-related non-transaction fees). The Exchange believes that it is equitable and not unfairly discriminatory to assess a higher fee to market participants that do not have such requirements and obligations that Exchange Market Makers do. The Exchange believes the proposed fees and rebates for regular orders in Mini Options will encourage use of Mini Options, which are designed to allow investors to reduce risk in high-priced underlying securities.

PMM Linkage Credit

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to provide a fee credit to PMMs for execution of Priority Customer orders in Mini Options in Non-Select Symbols and to Priority Customer and Professional Customer orders in Mini Options in Select Symbols to offset the costs incurred by PMMs as these fees will be uniformly applied to all PMMs that route out these orders at a rate that is 1/10th of the rate the Exchange currently provides for such orders in standard options.

Credit for Responses to Flash Orders

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to provide a fee credit for responses to Flash Orders when trading against Professional Customers orders in Mini Options in Non-Select Symbols and for responses to Flash Orders when trading against Priority Customers and Professional Customers in the Select Symbols at a rate that is 1/10th of the rate the Exchange currently provides for such orders in standard options. The Exchange believes the credit provides an incentive for members to trade these orders on the Exchange. The Exchange further believes that adopting a fee credit for executions resulting from responses to Priority Customer orders is reasonable and equitable because doing so will incentivize Exchange members to execute Priority Customer orders on the Exchange by trading against these orders at the National Best Bid or Offer. Further, the Exchange believes that the proposed fee credit is not unfairly discriminatory because the credit would be applied uniformly to responses to Priority Customer orders that are flashed and executed on the Exchange.

Payment for Order Flow

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to charge a PFOF fee to Market Makers when trading against Priority Customers in GOOG because the Exchange already charges this fee for standard options in GOOG and is simply proposing to charge this fee at a level that is 1/10th the rate for standard options in GOOG. The Exchange believes the proposed fee is equitable and not unfairly discriminatory because it will apply to all Exchange Market Makers. The Exchange does not currently charge a PFOF fee for standard options in AAPL, AMZN, GLD and SPY and therefore does not propose a PFOF fee for Mini Options in these symbols.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(4) and (5).

Route-Out Fee

Despite the Exchange's costs in routing orders to other exchanges, which are fixed regardless of whether the routed order is a standard option or a Mini Option, the Exchange has determined to charge a fee for routing out orders in Mini Options that is 1/10th of the fee the Exchange charges for routing out orders in standard options. The Exchange believes it is reasonable, equitable and not unfairly discriminatory as these fees will be uniformly applied to all market participants that choose to trade Mini Options on the Exchange.

Complex Order Fees and Rebates for Mini Options

The Exchange has determined to charge fees and provide rebates for complex orders in Mini Options at a rate that is 1/10th the rate of fees and rebates the Exchange currently provides for trading in standard options. The Exchange believes it is reasonable and equitable and not unfairly discriminatory to assess lower fees and rebates to provide market participants an incentive to trade Mini Options on the Exchange. The Exchange believes the proposed fees and rebates are 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, and, as such, levying fees that are 1/10th of what market participants pay today. As for Priority Customers, for the most part, the Exchange does not charge Priority Customers a fee (Priority Customers have traditionally traded options on the Exchange without a fee) and to the extent they pay a transaction fee for trading in standard options, they will continue to pay a transaction fee in Mini Options but at 1/10th the rate they pay for standard options. With respect to fees to Non-ISE Market Maker orders, the Exchange believes that charging Non-ISE Market Maker orders a higher rate than the fee charged to Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer complex orders is appropriate and not unfairly discriminatory because Non-ISE Market Makers are not subject to many of the non-transaction based fees that these other categories of membership are subject to, *e.g.,* membership fees, access fees, API/Session fees, market data fees, etc. Therefore, the Exchange believes it is appropriate and not unfairly discriminatory to assess a higher transaction fee to Non-ISE Market Makers because the Exchange incurs costs associated with these types of orders that are not recovered by non-transaction based fees paid by members. With respect to fees for Market Maker orders, the Exchange believes that the price differentiation between the various market participants is appropriate and not unfairly discriminatory because Market Makers have different requirements and obligations to the Exchange that the other market participants do not (such as quoting requirements and paying membership-related non-transaction fees). The Exchange believes that it is equitable and not unfairly discriminatory to assess a higher fee to market participants that do not have such requirements and obligations that Exchange Market Makers do. The Exchange believes the proposed fees and rebates for complex orders in Mini Options will encourage use of Mini Options, which are designed to allow investors to reduce risk in high-priced underlying securities.

The Exchange believes that it is reasonable and equitable to provide rebates for Priority Customer complex orders in Mini Options when these orders trade with Non-Priority Customer complex orders in the complex order book because paying a rebate will attract additional order flow to the Exchange and create liquidity in Mini Options, which the Exchange believes ultimately will benefit all market participants who trade on ISE. The Exchange already provides these rebates for standard options that overlie the five securities on which Mini Options are approved for trading. The Exchange believes that the proposed rebates are competitive and are therefore reasonable and equitably allocated to those members that direct orders to the Exchange rather than to a competing exchange. 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 Member has reached because doing so will provided members with an opportunity to qualify for increased rebates and therefore, incentivize members to trade more of such order flow on the Exchange.

Firm Fee Cap

The Exchange believes it is reasonable and equitable and not unfairly discriminatory to include Mini Options in the Exchange's fee cap program because it will potentially lower transaction fees for members providing liquidity in Mini Options on the Exchange. Members who reach the fee cap during a month will not have to pay incremental transaction fees and thus will be able to lower their monthly fees. The Exchange believes that the fee cap is not unfairly discriminatory because all members, including non-ISE market makers, are eligible to reach the cap. The Exchange believes that the proposed service fee, which is 1/10th of the service fee charged for standard options, is reasonable because members who reach the fee cap during a month will pay the service fee instead of the regular transaction fees and thus will be able to lower their monthly fees.

QCC and Solicitation Rebate

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to provided rebates for QCC and Solicitation orders in Mini Options. The Exchange believes that the proposed fee change will generally allow the Exchange and its members to better compete for order flow and thus enhance competition. Specifically, the Exchange believes that its proposal is reasonable as it will encourage members to direct their QCC and Solicitation orders in Mini Options to the Exchange instead of sending this order flow to a competing exchange. The Exchange believes that with the various tiers, which provides for additional volume thresholds, members will have the ability to qualify for higher rebates for sending their QCC and Solicitation orders in Mini Options to the Exchange. While the Exchange proposes to adopt the rebate levels for QCC and Solicitation orders in Mini Options that are 1/10th of the rebate for standard options, the Exchange is also proposing to combine volume in Mini Options and standard options to allow members to reach a higher tier and therefore, qualify for higher rebates. The Exchange also believes that its rebate program for QCC and Solicitation orders is equitable because it would uniformly apply to all members engaged in QCC and Solicitation trading in Mini Options traded on the Exchange.

Complex Quoting in GLD

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to charge the proposed maker fee for complex quoting in Mini Options in GLD. The Exchange believes it is reasonable and equitable to charge fees for orders in standard options executed in the complex order book when trading against Priority Customers in GLD given this unique functionality that allows Market Makers to quote in the complex order book. The Exchange believes that the proposed maker fee for complex orders in Mini Options in GLD is not unfairly discriminatory because the fees proposed herein are already applicable to complex orders in

standard options in GLD; with this proposed rule change, the Exchange is simply extending fees that are already established on the Exchange to Mini Options in GLD at a rate that is 1/10th of the fee charged for standard options in GLD.

Options Regulatory Fee

The Exchange is not proposing any change to the ORF with the introduction of Mini Options. The Exchange believes it is reasonable, equitable and not unfairly discriminatory to charge the ORF at the same rate for Mini Options as the Exchange charges for standard options. The Exchange believes that the cost to perform surveillance to ensure compliance with various Exchange and industry-wide rules is no different for Mini Options that it is for standard options. Reducing the ORF for Mini Options could result in a higher ORF for standard options. Such an outcome would arguably be discriminatory towards investors in standard options for the benefit of investors in Mini Options. Therefore, the Exchange believes it is appropriate to treat both Mini Options and standard options the same with respect to the amount of ORF that is being charged.

B. Self-Regulatory Organization's Statement on Burden on Competition

ISE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. This rule change is designed to provide greater specificity within the Schedule of Fees with respect to fees and rebates applicable to Mini Options.

The Exchange believes that the proposed fees and rebates for Mini Options which, with the exception to the ORF, are 1/10th of the fees and rebates the Exchange currently charges for standard options will not impose a burden on competition among various market participants on the Exchange, or between the Exchange and other exchanges that list and trade Mini Options, that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that charging different rates to different market participants does not impose a burden on competition for a number of reasons. For one, charging lower fees, or no fees, to Priority Customer orders attracts that order flow to the Exchange and thereby creates liquidity to the benefit of all market participants who trade on the Exchange. Further, Market Makers have certain obligations and commitments to the Exchange that non-Market Makers (*i.e.,* Non-ISE Market Makers, Firm Proprietary/Broker-Dealer and Professional Customer participants) do not and therefore it is appropriate for the Exchange to charge Market Makers fees that are different from those charged to other market participants. Further, the Exchange notes that for standard options a greater difference in fees for various market participants already exists than that which is proposed for Mini Options. For example, Priority Customers already trade for lower taker fees than do Market Makers when trading complex orders on the Exchange. For complex orders in standard options, ISE Market Makers currently pays a taker fee as high as $0.82 per contract for Non-Select Symbols (which are essentially non-Penny Pilot symbols) while the taker fee for Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders in these symbols is $0.84 per contract. For complex orders in standard options in these symbols, Priority Customers do not pay a taker fee. For Mini Options in these symbols, the taker fee proposed by the Exchange for ISE Market Makers is $0.082 per contract, 1/10th of the fee charged for standard options in these symbols, while the taker fee proposed by the Exchange for Non-ISE Market Maker, Firm Proprietary/Broker-Dealer and Professional Customer orders in these symbols is $0.084 per contract, again 1/10th of the fee charged for standard options. The differential for Mini Options is de minimus compared to the differential for standard options.

The Exchange notes that the difference in fees for various participants in standard options has not proven to be a burden on competition. Therefore, the fee differential for Mini Options, being quite a bit smaller, should not prove to be a burden on competition. Mini Options are a new product being introduced to the listed options market and while the Exchange at this time believes that the proposed fees and rebates are appropriate, the impact of this proposed rule change will only be known for certain once Mini Options have begun trading.

The Exchange notes that it operates in a highly competitive environment in which market participants can readily direct their order flow to competing exchanges. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons noted 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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [18] and subparagraph (f)(2) of Rule 19b–4 thereunder,[19] because it establishes a due, fee, or other charge imposed by ISE.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2013–28 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–ISE–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

[18] 15 U.S.C. 78s(b)(3)(A)(ii).

[19] 17 CFR 240.19b–4(f)(2).

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–ISE–2013–28 and should be submitted on or before April 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–08092 Filed 4–5–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69267; File No. SR–NYSEArca–2013–27]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Option Trading Rules to Extend the Operation of Its Pilot Program Regarding Minimum Value Sizes for Flexible Exchange Options, Currently Scheduled to Expire on March 29, 2013, Until March 31, 2014

April 2, 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 28, 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 Substance of the Proposed Rule Change

The Exchange proposes to amend its option trading rules to extend the operation of its pilot program (''Pilot Program'') regarding minimum value sizes for flexible exchange options (''FLEX Options''), currently scheduled to expire on March 29, 2013, until March 31, 2014. 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 hereby proposes to amend its option trading rules to extend the operation of its Pilot Program regarding minimum value sizes for FLEX Options, currently scheduled to expire on March 29, 2013,[4] until March 31, 2014. This filing does not propose any substantive changes to the Pilot Program and contemplates that all other terms of FLEX Options will remain the same. Overall, the Exchange believes that extending the Pilot Program will benefit public customers and other market participants who will be able to use FLEX Options to manage risk for smaller portfolios.

In support of the proposed extension of the Pilot Program, and as required by the terms of the Pilot Program's implementation,[5] the Exchange has submitted to the Securities and Exchange Commission (''SEC'' or ''Commission'') a Pilot Program Report that provides an analysis of the Pilot Program covering the period during which the Pilot Program has been in effect. This Pilot Program Report includes (i) data and analysis on the open interest and trading volume in (a) FLEX Equity Options that have opening transactions with a minimum size of 0 to 249 contracts and less than $1 million in underlying value; (b) FLEX Index Options that have opening transactions with a minimum opening size of less than $10 million in underlying equivalent value; and (ii) analysis on the types of investors that initiated opening FLEX Equity and Index Options transactions (*i.e.,* institutional, high net worth, or retail). The report has been submitted to the Commission.

The Exchange believes that there is sufficient investor interest and demand in the Pilot Program to warrant extension for another three months [sic]. The Exchange believes that the Pilot Program has provided investors with additional means of managing their risk exposures and carrying out their investment objectives. The Exchange has not experienced any adverse market effects with respect to the Pilot Program.

If, in the future, the Exchange proposes an additional extension of the Pilot Program, or should the Exchange propose to make the Pilot Program permanent, the Exchange will submit, along with any filing proposing such amendments to the Pilot Program, an additional Pilot Program Report covering the period during which the Pilot Program was in effect and including the details referenced above, along with the nominal dollar value of the underlying security of each trade. The Pilot Program Report would be submitted to the Commission at least two months prior to the expiration date of the Pilot Program.

The Exchange notes that any positions established under this Pilot Program would not be impacted by the expiration of the Pilot Program. For example, a 10-contract FLEX Equity Option opening position that overlies less than $1 million in the underlying security and expires in January 2016 could be established during the Pilot Program. If the Pilot Program were not extended, the position would continue

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 66650 (March 23, 2012), 77 FR 19048 (March 29, 2012) (SR–NYSEArca–2012–20).

[5] *See infra* note 6.

to exist and any further trading in the series would be subject to the minimum value size requirements for continued trading in that series.

The Exchange believes that the Pilot Program has been successful and well-received by its membership and the investing public for the period that it has been in operation as a Pilot Program.[6]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5),[8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. Specifically, the Exchange believes that the proposed extension of the Pilot Program, which eliminates the minimum value size applicable to FLEX Options, would provide greater opportunities for investors to manage risk through the use of FLEX Options. Further, the Exchange notes that it has not experienced any adverse effects from the operation of the Pilot Program.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is being made to extend the operation of the Pilot Program to allow additional time to enable the Exchange to file to permanently adopt the elimination of the minimum value size applicable to FLEX Options. Other competing options exchanges have similar programs to the Pilot Program. Thus, the proposed changes will not impose any burden on competition while providing that the elimination of the minimum value size applicable to FLEX Options continues without interruption until permanent approval is granted by the Commission.

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 proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission notes that waiving the 30-day operative delay would allow the Pilot Program to continue without interruption, and believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[13] Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2013–27 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–2013–27. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NYSEArca–2013–27 and should be submitted on or before April 29, 2013.

[6] The Pilot Program was initiated on May 12, 2010. *See* Securities Exchange Act Release No. 62054 (May 6, 2010), 75 FR 27381 (May 14, 2010) (SR–NYSEArca–2010–34).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(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, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–08088 Filed 4–5–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69276; File No. SR–DTC–2013–01]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change to Modify Its Practice Regarding the Collection of Participants' Required Participants Fund Deposits

April 2, 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 20, 2013, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which Items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change is to modify DTC's Settlement Services Guide, as described below.

II. Clearing Agency's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

Participants Fund

Pursuant to Rule 4 of its Rules, By-laws, Organization Certificate (''DTC Rules''), DTC maintains a fund funded by its Participants, which in addition to being a liquidity resource, is available to satisfy any uninsured loss incurred by DTC, including a loss resulting from a Participant's failure to settle its transactions (''Participants Fund'').[4] Each Participant's required deposit to the Participant's Fund (''Required Participants Fund Deposit'') is calculated daily pursuant to an established formula.[5] While the minimum deposit is $10,000, each Participant is required to make a deposit to the Participants Fund based upon a formula that takes into account the Participant's six largest intraday net debit peaks over a rolling sixty business-day period.[6] If the Participant's newly calculated Required Participants Fund Deposit is greater than its prior day's Required Participants Fund Deposit, and the difference thereof (i) equals or exceeds $500,000, and (ii) represents 25 percent or more of the newly calculated required fund deposit (''Threshold Amount and Percentage''), the Participant must deposit the difference in the Participants Fund within two business days,[7] to the extent any excess amount of the Participant's Actual Participants Fund Deposit does not already satisfy the new requirement.[8]

Under current procedures, as set forth in DTC's Settlement Services Guide, Participants must deposit any increased requirement to the Required Participants Fund Deposit that meets the Threshold Amount and Percentage within two business days.[9] Increases in amounts less than the Threshold Amount and Percentage are collected once per month for all Participants.[10]

In order to enhance its liquidity and risk coverage, DTC is proposing to accelerate the collection of Participants' Required Participants Fund Deposits from two business days to the same day the Participant is notified of the requirement. Under the proposal, for both the daily and monthly calculations that trigger collections, as described above, increased deposit requirements will be collected by DTC on a same-day basis, instead of within two business days.

Proposed Changes to Rule Text

If approved, DTC will revise the text of its Settlement Services Guide to provide that where a Participant's calculated Required Participants Fund Deposit meets the Threshold Amount and Percentage, the increased amount must (to the extent any excess amount of the Participant's Actual Participants Fund Deposit does not already satisfy the new requirement) be deposited with DTC on the same business day as (i) the calculation of the increase, and (ii) a report or other notification of the change is made available to the Participant.

As mentioned above, in order to harmonize the Participants Fund collection processes, monthly increases will also be collected on a same-day basis and language will be added to the Settlement Service Guide in this regard. In addition, language will be added to the Settlement Service Guide to clarify that the relevant Guide provisions shall apply only to the calculation and collection of DTC Participants Fund deposits, as described in the Guide, and do not supersede or limit any provisions of the DTC Rules or any rights of DTC in accordance with applicable law and DTC's Rules and Procedures, including but not limited to transactions in securities and money payments.

Finally, DTC will make certain clarifying and technical changes to the language as set forth in the ''Participants Fund'' section of its Settlement Service Guide. Changes include, but are not limited to: (i) Updating the description of the purpose of the Participants Fund, (ii) updating the use of defined terms, such as ''Participant,'' and (iii) updating and adding subject headings.

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission has modified the text of the summaries prepared by DTC.

[4] *See* DTC Rules (*http://dtcc.com/legal/rules_proc/dtc_rules.pdf*).

[5] *Id.,* Rule 4(a).

[6] *See* DTC Settlement Service Guide (*http://dtcc.com/downloads/products/learning/Settlement.pdf*). DTC may also require an additional deposit to the Participants Fund in the event that DTC becomes concerned with a Participant's financial soundness. *See* DTC Rules, *supra* note 4, Rule 9(A). Separately, a Participant may make a voluntary deposit to the Participants Fund (''Voluntary Participants Fund Deposit'') in excess of the amount required. *See id.,* Rule 4(c). These provisions are not impacted by the proposed rule change.

[7] *See* DTC Settlement Service Guide, *supra* note 6.

[8] *See* DTC Rules, *supra* note 4, Rule 4(b). ''Actual Participants Fund Deposit'' means the actual amount the Participant has deposited to the Participants Fund, including both its Required Participants Fund Deposit and any Voluntary Participants Fund Deposit. *Id.,* Rule 1.

[9] *See* DTC Settlement Service Guide, *supra* note 6.

[10] *See id.* (After settlement on the last business day of each month, DTC calculates each Participant's requirement. Each participant is notified of their new requirement on the first business day of the month. If a Participant's requirement has increased beyond the value they currently have on deposit at DTC, this deficit must be deposited with DTC within two business days.).

Statutory Basis

DTC believes the proposed rule change, as described above, is consistent with the requirements of the Act, specifically Section 17A(b)(3)(F),[11] and the rules and regulations thereunder applicable to DTC, because the change supports DTC's ability to collect increases to Participants' Required Participants Fund Deposits that meet the Threshold Amount and Percentage on a same-day basis, instead of within two business days, and therefore facilitates DTC's ability to safeguard securities and funds in its custody or control or for which it is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will 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 yet been solicited or received. DTC will notify the Commission of any written comments received by DTC.

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 such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–DTC–2013–01 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–DTC–2013–01. 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 filings also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at *http://dtcc.com/downloads/legal/rule_filings/2013/dtc/SR-DTC-2013-01.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–DTC–2013–01 and should be submitted on or before April 29,2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–08097 Filed 4–5–13; 8:45 am]

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[11] 15 U.S.C. 78q–1(b)(3)(F).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69266; File No. SR–CME–2013–03]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Clarifying Amendments to CME Rule 980

April 2, 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 18, 2013, Chicago Mercantile Exchange Inc. (''CME'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which items have been prepared primarily by CME. CME filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(1)[4] thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this Notice to solicit comments on the rule change from interested persons.

I. Self-Regulatory Organization's Statement of Terms of Substance of the Proposed Rule Change

CME proposes to make certain clarifying revisions to existing CME Rule 980 relating to clearing member records and reports. CME also certified the proposed changes that are the subject of this filing to the Commodity Futures Trading Commission (''CFTC'') in CME Submission 13–073. CME intends to implement the proposed changes on March 21, 2013. The text of the rule change is as follows, with additions in italics and deletions in brackets.

* * * * *

Rule 100—Rule 979—No Change

* * * * *

CME RULE 980. REQUIRED RECORDS AND REPORTS

A. Each clearing member shall prepare, maintain and keep current those books and records required by the rules of the Exchange, the Commodity Exchange Act and the Regulations thereunder. Such books and records shall be open to inspection and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(1).

promptly provided to the Exchange upon request.

B. Each clearing member shall maintain an adequate accounting system, internal accounting controls, and procedures for safeguarding customer and firm assets [as set forth in CFTC Regulation 1.16(d)(2)]. This includes, but is not limited to, the following:

1. Preparation and maintenance of complete and accurate reconciliations for all accounts; [and]
2. Resolution of reconciling items in a timely manner; *and*
3. *Prevention of a material inadequacy as defined in CFTC Regulation 1.16(d)(2).*

C. A clearing member must file any information requested by the Exchange within the time period specified in the request.

D. Each clearing member shall maintain at all times the ability to provide to the Exchange in an acceptable form a complete set of equity system reports (including, at a minimum, the equity run, open position listing, day trade listing, cash adjustments listing and performance bond call and debit equity listing). Such reports shall be available to the Exchange in Chicago no later than 8:00 a.m. Chicago time on the business day following the report date.

E. Each clearing member shall maintain at all times the ability to provide to the Exchange a listing of each customer's method of access to CME markets, including front end applications and network connections.

* * * * *

Rule 981—End—No Change

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II. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CME included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the rule change. The text of these statements may be examined at the places specified in Item IV below. CME has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[5]

[5] The Commission has modified the text of the summaries prepared by CME.

A. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

CME is registered as a derivatives clearing organization with the CFTC and operates a substantial business clearing futures and swaps contracts subject to the jurisdiction of the CFTC. CME proposes to make certain clarifying amendments to CME Rule 980 relating to clearing member records and reports. Current CME Rule 980.B requires each CME clearing member to maintain adequate books and records in accordance CFTC Regulation 1.16(d)(2). The Rule further identifies specific requirements in sub-clauses 980.B.1 (preparation and maintenance of complete and accurate reconciliations for all accounts) and 980.B.2 (resolution of reconciling items in a timely manner) which are requirements of CME. In order to clarify the requirements of CME Rule 980, CME is proposing to amend CME Rule 980.B to provide for a separate clause requiring compliance with CFTC Regulation 1.16(d)(2) as a new sub-clause 980.B.3. As such, the change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. The rule change is therefore properly filed under Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(1) thereunder.

CME believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and, in particular, Section 17A(b)(3)(F) of the Act, which requires, among other things, that the rules of a clearing agency be designed to protect investors and the public interest. The proposed rule change is designed to clarify clearing members' obligations under CME Rule 980 with respect to maintaining an adequate accounting system, internal accounting controls, and procedures for safeguarding customer and firm assets. Specifically, the proposed rule change clarifies that these obligations include the preparation and maintenance of complete and accurate reconciliations for all accounts, the resolution of reconciling items in a timely manner, and prevention of a material inadequacy as defined in CFTC Regulation 1.16(d)(2). This rule change is being made to enhance CME's efforts to protect investors who utilize its clearinghouse services through its clearing members.

B. Self-Regulatory Organization's Statement on Burden on Competition

CME does not believe that the rule change will 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

CME has not solicited, and does not intend to solicit, comments regarding this rule change. CME has not received any unsolicited written comments from interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)[6] of the Act and Rule 19b–4(f)(1)[7] thereunder because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. At any time within 60 days of the filing of the 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.[8]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*), or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–CME–2013–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CME–2013–03. This file number should be included on the subject line if email is used. To help the

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(1).

[8] 15 U.S.C. 78s(b)(3)(C).

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 CME. 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–CME–2013–03 and should be submitted on or before April 29, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–08107 Filed 4–5–13; 8:45 am]

BILLING CODE 8011–01–P

[9] 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 May 8, 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: Compensation Agreement.

Frequency: On Occasion.

SBA Form Number's: 159(7a), 159(504), 159D.

Description of Respondents: 7(A) Lenders, 504 Applicants, and Disaster Loan request.

Responses: 9,210.

Annual Burden: 1,385.

Curtis Rich,

Management Analyst.

[FR Doc. 2013–07987 Filed 4–5–13; 8:45 am]

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TRADE REPRESENTATIVE

Andean Trade Preference Act (ATPA), as Amended: Request for Public Comments Regarding Beneficiary Countries

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of opportunity to file comments on the beneficiary countries under ATPA.

SUMMARY: In compliance with section 203(f) of the ATPA, as amended, 19 U.S.C. 3202(f)(2), the Office of the United States Trade Representative (USTR) is requesting the views of interested parties on whether the remaining designated beneficiary country (as of May 15, 2012), Ecuador, is meeting the eligibility criteria under the ATPA. (*See* 19 U.S.C. 3203 (b)(6)(B).) This information will be used in the preparation of a report to the Congress on the operation of the program.

DATES: Public comments are due by close of business, May 8, 2013.

ADDRESSES: Submissions can be made on-line: *http://www.regulations.gov*, docket number USTR–2013–0018.

FOR FURTHER INFORMATION CONTACT: Bennett Harman, Deputy Assistant USTR for Latin America, at (202) 395–9446.

SUPPLEMENTARY INFORMATION: The ATPA, as amended by the Andean Trade Promotion and Drug Eradication Act of 2002 (ATPDEA) in the Trade Act of 2002, 19 U.S.C. 3201 *et seq.,* provides trade benefits for eligible Andean countries. The original ATPA allowed Bolivia, Ecuador, Colombia, and Peru to be considered as beneficiary countries if they met eligibility requirements laid out in 19 U.S.C. 3203 (b)(6)(B).

In Proclamation 8323 of November 25, 2008, the President determined that Bolivia no longer satisfied the eligibility criteria related to counternarcotics and suspended Bolivia's status as a beneficiary country for purposes of the ATPA and ATPDEA. In a June 30, 2009 report to Congress the President did not determine that Bolivia satisfied the requirements set forth in section 203(c) of the ATPA (19 U.S.C. 3202(c)) for being designated as a beneficiary country. Therefore, as provided for in section 208(a)(3) of the Act (19 U.S.C. 3206(a)(3)), no duty free treatment or other preferential treatment extended under the ATPA remained in effect with respect to Bolivia after June 30, 2009.

Section 201 of the Omnibus Trade Act of 2010 (Pub. L. 111–344), which re-authorized the ATPDEA, terminated any duty free treatment or other preferential treatment available under ATPDEA to Peru, effective December 31, 2010. The United States and Peru have entered into a bilateral free trade agreement.

Colombia was no longer an eligible beneficiary country under the ATPA as of May 15, 2012, when the U.S.-Colombia Trade Promotion Agreement entered into force (19 U.S.C. 3805 Note).

Unless renewed by Congress, the ATPA will expire on July 31, 2013.

Additional Information: Section 203(f) of the ATPA (19 U.S.C. 3202(f)) requires the USTR, not later than June 30, 2013, to submit to Congress a report on the operation of the ATPA. Before submitting such report, USTR is required to request comments on whether beneficiary countries are meeting the criteria set forth in 19 U.S.C. 3203 (b)(6)(B) (which incorporates by reference the criteria set forth in sections 3202 (c) and (d)). USTR refers interested parties to the **Federal Register** notice published on August 15, 2002 (67 FR 53379), for a full list of the eligibility criteria.

Requirements for Submissions: Persons submitting written comments

must do so in English and must identify on the first page of the submission ''USTR Report on Operation of the Andean Trade Preference Act.'' In order to be assured of consideration, comments should be submitted by close of business, May 8, 2013.

In order to ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to make on-line submissions, using the *http://www.regulations.gov* Web site. Comments should be submitted under the following docket: USTR–2013–0018. To find the docket, enter the docket number in the ''Enter Keyword or ID'' window at the *http://www.regulations.gov* home page and click ''Search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled ''Comment Now!'' (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on the ''Help'' tab.)

The *http://www.regulations.gov* Web site provides the option of making submissions by filling in a comments field, or by attaching a document. USTR prefers submissions to be provided in an attached document. If a document is attached, it is sufficient to type ''See attached'' in the ''Type Comment'' and attach a file in the ''Upload File(s)'' field. USTR also prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the ''Comments'' field.

A person seeking to request that information contained in a submission from that person be treated as business confidential information must certify that such information is business confidential and would not customarily be released to the public by the submitter. For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Confidential business information must be clearly designated as such. The submission must be marked ''BUSINESS CONFIDENTIAL'' at the top and bottom of the cover page and each succeeding page, and the submission should indicate, via brackets, the specific information that is confidential. Additionally, ''BUSINESS CONFIDENTIAL'' must be included in the ''Type Comment'' field. Filers of submissions containing business confidential information must also submit a public version of their comments indicating where confidential information has been redacted. The non-confidential summary will be placed in the docket and open to public inspection. The file name of the public version should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments or reply comments. Filers submitting comments containing no business confidential information should name their file using the character ''P'', followed by the name of the person or entity submitting the comments.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

USTR strongly urges submitters to file comments through *www.regulations.gov,* if at all possible. Any alternative arrangements must be made with Bennett Harman in advance of transmitting a comment. Mr. Harman should be contacted at (202) 395–9446. General information concerning USTR is available at *http://www.ustr.gov.*

Inspection of Submissions: Submissions in response to this notice, except for information granted ''business confidential'' status, will be available for public viewing at *http://www.regulations.gov.* Such submissions may be viewed by entering the docket number USTR–2013–0018 in the search field at *http://www.regulations.gov.*

William Shpiece,

Acting Chairman, Trade Policy Staff Committee.

[FR Doc. 2013–08035 Filed 4–5–13; 8:45 am]

BILLING CODE 3290–F3–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Office of Commercial Space Transportation; Notice of Availability of the Finding of No Significant Impact (FONSI) and Record of Decision (ROD) for Issuing Launch and Reentry Licenses to Space Exploration Technologies Corp. (SpaceX) for Falcon 9 and Falcon Heavy Commercial Launch Operations at Vandenberg Air Force Base (VAFB), California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of the FONSI and ROD.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA; 42 United States Code 4321 et seq.), Council on Environmental Quality NEPA implementing regulations (40 Code of Federal Regulations parts 1500 to 1508), and FAA Order 1050.1E, Change 1, *Environmental Impacts: Policies and Procedures,* the FAA is announcing the availability of a FONSI/ROD, based on the analysis and findings of the U.S. Air Force's (USAF's) March 2011 *Final Environmental Assessment for Falcon 9 and Falcon 9 Heavy Launch Vehicle Programs from Space Launch Complex 4 East* (the EA).

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Czelusniak, Environmental Specialist, Federal Aviation Administration, 800 Independence Ave., SW., Room 325, Washington, DC 20591; email *Daniel.Czelusniak@faa.gov;* or phone (202) 267–5924.

SUPPLEMENTARY INFORMATION: The FAA participated as a cooperating agency with USAF in the preparation of the EA, which evaluated the potential environmental impacts of operating the Falcon 9 and Falcon Heavy launch vehicle programs from Space Launch Complex-4 East (SLC–4E) at VAFB. As the Proposed Action would require Federal actions (as defined in 40 CFR § 1508.18) involving USAF and the FAA, the EA was prepared to satisfy the NEPA obligations of both agencies. USAF was the lead agency, and the FAA served as a cooperating agency because of its role in issuing licenses or permits to operate commercial launch and reentry vehicles. USAF issued a FONSI on July 11, 2011, which stated that the potential environmental impacts associated with the Proposed Action would not individually or cumulatively have a significant impact on the quality of the human environment, and therefore the preparation of an Environmental Impact Statement (EIS) was not required. The FAA has formally adopted the EA and is using the FONSI/ROD to support the issuance of launch and reentry licenses to SpaceX for Falcon 9 and Falcon Heavy commercial launch operations at VAFB.

The Proposed Action analyzed in the EA consists of SpaceX operating its Falcon 9 and Falcon Heavy launch vehicle programs to provide government and commercial space operations from SLC–4E at VAFB. The Proposed Action in the EA also includes modifications and new construction at SLC–4E to support SpaceX's launch operations. Modification and construction activities have been initiated since the EA was

published. SLC–4E was previously used for the Titan IV program and has been non-operational since 2005. The FAA's Proposed Action is to issue launch and reentry licenses to SpaceX for Falcon 9 and Falcon Heavy commercial launch operations at VAFB. Alternatives analyzed as part of the FONSI/ROD include (1) the Proposed Action and (2) No Action Alternative. Under the No Action Alternative, the FAA would not issue launch or reentry licenses to SpaceX for Falcon 9 or Falcon Heavy commercial launch operations at VAFB.

Based on its independent review and consideration, the FAA issued a FONSI/ROD concurring with the analysis of impacts and findings in the EA and formally adopting the EA to support the issuance of launch and reentry licenses to SpaceX for Falcon 9 and Falcon Heavy commercial launch operations at VAFB. After reviewing and analyzing available data and information on existing conditions, potential impacts, and measures to mitigate those impacts, the FAA has determined that issuing launch and reentry licenses to SpaceX for Falcon 9 and Falcon Heavy commercial launch operations at VAFB is a Federal action that would not significantly affect the quality of the human environment within the meaning of NEPA. Therefore, the preparation of an EIS is not required, and the FAA has issued a FONSI/ROD. The FAA made this determination in accordance with all applicable environmental laws and FAA regulations.

The FAA has posted the EA and FONSI/ROD on the internet at *http://www.faa.gov/about/office_org/headquarters_offices/ast/environmental/nepa_docs/review/launch/*.

Issued in Washington, DC on March 26, 2013.

Daniel P. Murray,

Deputy Manager, Space Transportation Development Division.

[FR Doc. 2013–08083 Filed 4–5–13; 8:45 am]

BILLING CODE 4310–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2013–0013]

Proposed Memorandum of Understanding (MOU) Revision Assigning Certain Federal Environmental Responsibilities to the State of California, Including National Environmental Policy Act (NEPA) Authority for Categorical Exclusions (CEs)

AGENCY: Federal Highway Administration (FHWA), California Division, DOT.

ACTION: Notice of proposed MOU, request for comments.

SUMMARY: This notice announces that FHWA and the State of California, acting by and through its Department of Transportation (State), propose to renew and amend an MOU between the parties dated June 7, 2010, pursuant to 23 U.S.C. 326. The MOU would extend the duration of the agreement by three years, continuing the assignment to the State of the FHWA's authority and responsibility for determining whether certain designated activities within the geographic boundaries of the State, as specified in the proposed MOU, are categorically excluded from preparation of an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA). Aside from editorial changes to the MOU, the following minor changes would also be incorporated: (1) The State would be required to submit a list of CE determinations semi-annually as opposed to quarterly, including Section 4(f) decisions; (2) the **Federal Register** notice of availability and comment period would be modified from 45 days to 30 days, where applicable; (3) language would be included clarifying that the presence of unusual circumstances and significant environmental impacts must be considered in CE findings; (4) inclusion of language to clarify that the State coordinate with the Department of Justice and FHWA in the event of litigation, (5) FHWA program reviews would be at no sooner than the 19th month and no later than the 31st month in order to give the State adequate time to implement corrective action plans; (6) future changes to 23 CFR 771.117(c) and (d), in addition to Appendix A resulting from rulemaking would be automatically incorporated into the MOU; (7) the termination provisions of the MOU would be changed to comply with the provisions of Moving Ahead for Progress in the 21st Century (MAP–21).

DATES: Please submit comments on or before May 8, 2013.

ADDRESSES: You may submit comments, identified by DOT Document Management System (DMS) Docket Number [FHWA–2013–0013], by any of the methods described below. Electronic or facsimile comments are preferred because Federal offices experience intermittent mail delays from security screening.

1. *Web site: http://www.regulations.gov*. Follow the instructions for submitting comments on the DOT electronic docket site.
2. *Facsimile (Fax):* 1–202–493–2251.
3. *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590.
4. *Hand Delivery:* 1200 New Jersey Ave. SE., Washington, DC 20590 between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

For access to the docket to view a complete copy of the proposed MOU, or to read background documents or comments received, go to *http://www.regulations.gov* at any time or to 1200 New Jersey Ave. SE., Washington, DC 20590, between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except for Federal holidays.

FOR FURTHER INFORMATION CONTACT: For FHWA: Mr. Shawn Oliver; by email at *shawn.oliver@dot.gov* or by telephone at (916) 498–5048. The FHWA California Division Office's normal business hours are 8 a.m. to 4:30 p.m. (Pacific Time), Monday through Friday, except for Federal Holidays. For State: Mr. Dale Jones; by email at *dale_jones@dot.ca.gov;* by telephone at (916) 653–5157. The California Department of Transportation's normal business hours are 8 a.m. to 4:30 p.m. (Pacific Time), Monday through Friday, except for State and Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may be downloaded using a computer, modem, and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at *http://www.archives.gov* and the Government Printing Office's Web site at *http://www.access.gpo.gov*. An electronic version of the proposed MOU may be downloaded by accessing the DOT DMS docket, as described above, at *http://*

www.regulations.gov or at *http://www.dot.ca.gov/hq/env/nepa_pilot/html/categorical_exclusion.htm.*

Background

Section 326 of title 23, United States Code (23 U.S.C. 326), allows the Secretary of the DOT (Secretary), to assign, and a State to assume, responsibility for determining whether certain designated activities are included within classes of action that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (CFR) (as in effect on October 1, 2003). The FHWA is authorized to act on behalf of the Secretary with respect to these matters.

The FHWA and the State had previously entered into an MOU on June 7, 2007, for an initial term of three (3) years and was subsequently extended for another three (3) years set to expire on June 7, 2013. The proposed renewed and amended MOU will replace the existing MOU and be in effect for an additional three (3) years. Stipulation I (B) of the MOU describes the types of actions for which the State would assume project-level responsibility for determining whether the criteria for a CE are met. Statewide decision-making responsibility would be assigned for all activities within the categories listed in 23 CFR 771.117(c), those listed as examples in 23 CFR 771.117(d) and additional actions identified as Appendix A, including any added to those sections by FHWA after the date of the new MOU.

The MOU also assigns to the State the responsibility for conducting Federal environmental review, consultation, and other related activities for projects that are subject to the MOU with respect to the following Federal laws and Executive Orders:

1. Clean Air Act (CAA), 42 U.S.C. 7401–7671q (determinations of project-level conformity if required for the project).
2. Compliance with the noise regulations in 23 CFR part 772.
3. Section 7 of the Endangered Species Act of 1973, 16 U.S.C. 1531–1544, and Section 1536.
4. Marine Mammal Protection Act, 16 U.S.C. 1361.
5. Anadromous Fish Conservation Act, 16 U.S.C. 757a–757g.
6. Fish and Wildlife Coordination Act, 16 U.S.C. 661–667d.
7. Migratory Bird Treaty Act, 16 U.S.C. 703–712.
8. Magnuson-Stevens Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 *et seq.*
9. Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470(f) *et seq.*
10. Section 4(f) of the Department of Transportation Act of 1966, 23 U.S.C. 138 and 49 U.S.C. 303; and 23 CFR part 774.
11. Archeological and Historic Preservation Act of 1966, as amended, 16 U.S.C. 469–469(c).
12. American Indian Religious Freedom Act, 42 U.S.C. 1996.
13. Farmland Protection Policy Act (FPPA), 7 U.S.C. 4201–4209.
14. Clean Water Act, 33 U.S.C. 1251–1377 (Section 404, Section 401, Section 319).
15. Coastal Barrier Resources Act, 16 U.S.C. 3501–3510.
16. Coastal Zone Management Act, 16 U.S.C. 1451–1465.
17. Safe Drinking Water Act (SDWA), 42 U.S.C. 300f–300j–6.
18. Rivers and Harbors Act of 1899, 33 U.S.C. 401–406.
19. Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287.
20. Emergency Wetlands Resources Act, 16 U.S.C. 3921–3931.
21. TEA–21 Wetlands Mitigation, 23 U.S.C. 103(b)(6)(m), 133(b)(11).
22. Flood Disaster Protection Act, 42 U.S.C. 4001–4128.
23. Land and Water Conservation Fund (LWCF), 16 U.S.C. 4601–4604 (known as section 6(f)).
24. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601–9675.
25. Superfund Amendments and Reauthorization Act of 1986 (SARA).
26. Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901–6992k.
27. Landscaping and Scenic Enhancement (Wildflowers), 23 U.S.C.
28. Executive Orders Relating to Highway Projects (E.O. 11990, Protection of Wetlands; E.O. 11988, Floodplain Management; E.O. 12898, Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593, Protection and Enhancement of Cultural Resources; E.O. 13007, Indian Sacred Sites; E.O. 13175, Consultation and Coordination With Indian Tribal Governments; E.O. 13112, Invasive Species).

The MOU allows the State to act in the place of the FHWA in carrying out the functions described above, except with respect to government-to-government consultations with federally recognized Indian tribes. The FHWA will retain responsibility for conducting formal government-to-government consultation with federally recognized Indian tribes, which is required under some of the above-listed laws and executive orders. The State also may assist the FHWA with formal consultations, with consent of a tribe, but the FHWA remains responsible for the consultation. This assignment includes transfer to the State of California the obligation to fulfill the assigned environmental responsibilities on any proposed projects meeting the Criteria in Stipulation I(B) of the MOU that were determined to be CEs prior to the effective date of the original MOU but that have not been completed as of the effective date of the MOU.

The FHWA California Division, in consultation with FHWA Headquarters, will consider the comments submitted when making its decision on the proposed MOU revision. Any final MOU approved by FHWA may include changes based on comments and consultations relating to the proposed renewed and amended MOU. Once the FHWA makes a decision on the proposed MOU revision, the FHWA will place in the DOT DMS Docket a statement describing the outcome of the decision-making process and a copy of any final MOU. The FHWA also will publish in the **Federal Register** a notice of the FHWA decision and the availability of any final MOU. Copies of the final documents also may be obtained by contacting the FHWA or the State at the addresses provided above, or by viewing the documents at: *http://www.dot.state.ak.us/stwddes/desenviron/resources/6004.shtml.*

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 326; 42 U.S.C. 4331, 4332; 23 CFR 771.117; 40 CFR 1507.3, 1508.4.

Issued on: April 2, 2013.

Vincent P. Mammano,

Division Administrator, Sacramento, California.

[FR Doc. 2013–08103 Filed 4–5–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket Nos. AB 167 (Sub-No. 1192X); AB 55 (Sub-No. 723X); AB 290 (Sub-No. 342X)]

Consolidated Rail Corporation, CSX Transportation, Inc., and Norfolk Southern Railway Company—Discontinuance Exemptions—In Middlesex County, N.J.

On March 19, 2013, Consolidated Rail Corporation (Conrail), CSX Transportation, Inc. (CSXT), and Norfolk Southern Railway Company (NSR) (collectively, applicants) jointly filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* for each carrier to discontinue service over an approximately 2.23-mile line of railroad extending from milepost 0.77± to milepost 3.00± in Middlesex County, N.J. The line traverses United States Postal Service Zip Codes 08901, 08903, and 08906.

Applicants have certified that: (1) No local or overhead traffic has moved over the line for at least two years; (2) any overhead traffic that has moved or could move over the line can be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will be effective on May 8, 2013, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2) [1] must be filed by April 18, 2013.[2] Petitions to reopen must be filed by April 29, 2013, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to the applicants' representative: Benjamin C. Dunlap, Jr., Nauman, Smith, Shissler and Hall, LLP, 200 North Third Street, 18th Floor, Harrisburg, PA 17101.

If the notice contains false or misleading information, the exemption is void *ab initio.*

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov.*''

Decided: April 2, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2013–08146 Filed 4–5–13; 8:45 am]

BILLING CODE 4915–01–P

[1] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

[2] Because applicants are seeking to discontinue service, not to abandon the line, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historic documentation is required here under 49 CFR 1105.6(c) and 49 CFR 1105.8(b), respectively.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket Nos. AB 167 (Sub-No. 1193X); AB 55 (Sub-No. 730X); AB 290 (Sub No. 345X)]

Consolidated Rail Corporation, CSX Transportation, Inc., and Norfolk Southern Railway Company—Discontinuance Exemptions—in Monmouth County, N.J.

On March 19, 2013, Consolidated Rail Corporation (Conrail), CSX Transportation, Inc. (CSXT), and Norfolk Southern Railway Company (NSR) (collectively, applicants) jointly filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* for each carrier to discontinue service over an approximately 5.10-mile line of railroad extending from milepost 19.30± to milepost 24.40±, in Monmouth County, N.J. The line traverses United States Postal Service Zip Codes 07727 and 07728.

Applicants have certified that: (1) No local or overhead traffic has moved over the line for at least two years; (2) any overhead traffic that has moved or could move over the line can be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will be effective on May 8, 2013, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2) [1] must be filed by April 18, 2013.[2] Petitions to reopen must be filed by April 29, 2013, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to the applicants' representative: Benjamin C. Dunlap, Jr., Nauman, Smith, Shissler and Hall, LLP, 200 North Third Street, 18th Floor, Harrisburg, PA 17101.

If the notice contains false or misleading information, the exemption is void *ab initio.*

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov.*''

Decided: April 2, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2013–08151 Filed 4–5–13; 8:45 am]

BILLING CODE 4915–01–P

[1] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

[2] Because applicants are seeking to discontinue service, not to abandon the line, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historic documentation is required here under 49 CFR 1105.6(c) and 49 CFR 1105.8(b), respectively.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Indexing the Annual Operating Revenues of Railroads

The Surface Transportation Board (STB) is publishing the annual inflation-adjusted index factors for 2012. These factors are used by the railroads to adjust their gross annual operating revenues for classification purposes. This indexing methodology insures that railroads are classified based on real business expansion and not from the affects of inflation. Classification is important because it determines the extent to which individual railroads must comply with STB reporting requirements.

The STB's annual inflation-adjusted factors are based on the annual average Railroad's Freight Price Index which is developed by the Bureau of Labor Statistics (BLS). The STB's deflator factor is used to deflate revenues for comparison with established revenue thresholds.

The base year for railroads is 1991. The inflation index factors are presented as follows:

STB Railroad Inflation-Adjusted Index and Deflator Factor Table

Year	Index	Deflator
1991	409.50	[1] 100.00
1992	411.80	99.45
1993	415.50	98.55
1994	418.80	97.70
1995	418.17	97.85
1996	417.46	98.02
1997	419.67	97.50
1998	424.54	96.38
1999	423.01	96.72
2000	428.64	95.45
2001	436.48	93.73
2002	445.03	91.92
2003	454.33	90.03
2004	473.41	86.40
2005	522.41	78.29
2006	567.34	72.09
2007	588.30	69.52
2008	656.78	62.28
2009	619.73	66.00
2010	652.29	62.71
2011	708.80	57.71
2012	740.61	55.23

[1] Ex Parte No. 492, *Montana Rail Link, Inc., and Wisconsin Central Ltd., Joint Petition for Rulemaking With Respect to 49 CFR 1201,* 8 I.C.C. 2d 625 (1992), raised the revenue classification level for Class I railroads from $50 million (1978 dollars) to $250 million (1991 dollars), effective for the reporting year beginning January 1, 1992. The Class II threshold was also raised from $10 million (1978 dollars) to $20 million (1991 dollars).

Effective Date: January 1, 2012.

For Further Information Contact: Paul Aguiar 202–245–0323. [Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339]

By the Board, William F. Huneke, Director, Office of Economics.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–07998 Filed 4–5–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated Nationals and Blocked Persons Pursuant to Executive Order 13348

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is publishing the name of 12 individuals whose property and interests in property have been unblocked pursuant to Executive Order 13348 of July 22, 2004, ''Blocking Property of Certain Persons and Prohibiting the Importation of Certain Goods from Liberia.''

DATES: The unblocking and removal from the list of Specially Designated Nationals and Blocked Persons by the Secretary of the Treasury of the 12 individuals identified in this notice whose property and interests in property were blocked pursuant to Executive Order 13348 of July 22, 2004, is effective April 2, 2013.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue NW (Treasury Annex) Washington, DC 20220, Tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

Information about this document and additional information concerning OFAC are available from OFAC's Web site (*www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background

On July 22, 2004, President Bush issued Executive Order 13348 (''the order'' or ''EO 13348''), finding that the actions and policies of former Liberian President Charles Taylor and other persons, in particular their unlawful depletion of Liberian resources and their removal from Liberia, and secreting of Liberian funds and property, undermined Liberia's transition to democracy, the orderly development of Liberia's political, administrative, and economic institutions and resources, and fueled and exacerbated other conflicts throughout West Africa. The President found that the actions, policies, and circumstances described above constituted an unusual and extraordinary threat to the foreign policy of the United States and declared a national emergency to deal with that threat.

The order included 28 persons in the Annex, which resulted in the blocking of all property or interests in property of these persons that was or thereafter came within the United States or the possession or control of U.S. persons. The order authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to designate additional persons or entities determined to meet certain criteria set forth in EO 13348.

The order also authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to determine that circumstances no longer warrant the inclusion of a person in the Annex to EO 13348 and to unblock any property or interests in property that had been blocked as a result of the person's inclusion in the Annex.

On April 2, 2013, the Deputy Director of OFAC, on behalf of the Director of OFAC, removed from the list of Specially Designated Nationals and Blocked Persons the twelve individuals listed below, whose property and interests in property were blocked pursuant to the order.

1. ALLEN, Cyril; DOB 26 Jul 1952; Former Chairman, National Patriotic Party of Liberia; nationality Liberia; alt. nationality Nigerian (individual) [LIBERIA].
2. COOPER, Randolph; DOB 28 Oct 1950; Former Managing Director, Roberts International Airport (individual) [LIBERIA].
3. DUNBAR, Belle Y.; DOB 27 Oct 1967; alt. DOB 27 Oct 1963; Former Managing Director, Liberian Petroleum Refining Company (individual) [LIBERIA].
4. GIBSON, Myrtle; DOB 03 Nov 1952; Former Liberian Senator; advisor to former President of Liberia Charles Taylor (individual) [LIBERIA].
5. GOODRIDGE, Reginald B. (a.k.a. GOODRICH, Reginald B. (Senior)); DOB 11 Nov 1952; Sr.; Former Minister for Culture, Information, Tourism of Liberia (individual) [LIBERIA].

6. MININ, Leonid (a.k.a. BLAVSTEIN, Leonid; a.k.a. BLUVSHTEIN, Leonid; a.k.a. BLYAFSHTEIN, Leonid; a.k.a. BLYUFSHTEIN, Leonid; a.k.a. BLYUVSHTEIN, Leonid; a.k.a. BRESLAN, Wolf; a.k.a. BRESLAN, Wulf; a.k.a. KERLER, Vladimir Abramovich; a.k.a. OSOLS, Igor; a.k.a. POPELA, Vladimir Abramovich; a.k.a. POPELAVESKI, Vladimir Abramovich; a.k.a. POPELO, Vladimir Abramovich; a.k.a. POPELOVESKI, Vladimir Abramovich; a.k.a. POPILOVESKI, Vladimir Abramovich); DOB 14 Dec 1947; alt. DOB 18 Oct 1946; nationality Ukraine; Passport 5280007248D (Germany); alt. Passport 18106739D (Germany); alt. Passport 6019832 (Israel) issued 06 Nov 1994 expires 05 Nov 1999; alt. Passport 9001689 (Israel) issued 23 Jan 1997 expires 22 Jan 1999; alt. Passport KI0861177 (Russia); alt. Passport 65118 (Bolivia); alt. Passport 90109052 (Israel) issued 26 Nov 1997; Owner, Exotic Tropical Timber Enterprise (individual) [LIBERIA].
7. NAYDO, Valeriy (a.k.a. NAIDO, Valerii), c/o CET AVIATION, P.O. Box 932–20C, Ajman, United Arab Emirates; Equatorial Guinea; DOB 10 Aug 1957; citizen Ukraine; Passport AC251295 (Ukraine); alt. Passport KC024178 (Ukraine) (individual) [LIBERIA].
8. REEVES-TAYLOR, Agnes (a.k.a. TAYLOR, Agnes Reeves; a.k.a. ''REEVES-TAYLOR''); DOB 27 Sep 1965; nationality Liberia; Ex-wife of former President of Liberia Charles Taylor; ex-Permanent Representative of Liberia to the International Maritime Organization (individual) [LIBERIA].
9. SALAMI, Mohamed Ahmad (a.k.a. SALAME, Mohamed Ahmad); DOB 22 Sep 1961; nationality Lebanon; Owner, Mohamed Group of Companies; former President of Liberia Charles Taylor's informal diplomatic representative (individual) [LIBERIA].
10. SHAW, Emmanuel (II); DOB 26 Jul 1946; alt. DOB 26 Jul 1956; alt. DOB 29 Jul 1956; Advisor to former President of Liberia Charles Taylor (individual) [LIBERIA].
11. TAYLOR, Tupee Enid; DOB 17 Dec 1962; Ex-wife of former President of Liberia Charles Taylor (individual) [LIBERIA].
12. TAYLOR, Jewell Howard; DOB 17 Jan 1963; Wife of former President of Liberia Charles Taylor (individual) [LIBERIA].

Dated: April 2, 2013.

Barbara C. Hammerle,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2013–08142 Filed 4–5–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Publication of Inflation Adjustment Factor, Nonconventional Source Fuel Credit, and Reference Price for Calendar Year 2012

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: Publication of the inflation adjustment factor, nonconventional source fuel credit, and reference price for calendar year 2012 as required by section 45K of the Internal Revenue Code (26 U.S.C. 45K). The inflation adjustment factor and reference price are used to determine the credit allowable under section 45K for coke or coke gas (other than from petroleum based products) for calendar year 2012.

DATES: The 2012 inflation adjustment factor, nonconventional source fuel credit, and reference price apply to coke or coke gas (other than from petroleum based products) sold during calendar year 2012.

Inflation Adjustment Factor: The inflation adjustment factor for coke or coke gas for calendar year 2012 is 1.1922.

Credit: The nonconventional source fuel credit for coke or coke gas for calendar year 2012 is $3.58 per barrel-of-oil equivalent of qualified fuels.

Reference Price: The reference price for calendar year 2012 is $94.53. The phaseout of the credit does not apply to coke or coke gas.

FOR FURTHER INFORMATION CONTACT: For questions about how the inflation adjustment factor is calculated—

Ahmad Qadri, RAS:R:FDA, Internal Revenue Service 77 K Street, NE., Washington, DC 20002, Telephone Number (202) 874–5225 (not a toll-free number).

For all other questions about the credit or the reference price—

Martha Garcia, CC:PSI:6, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, Telephone Number (202) 622–3110 (not a toll-free number).

Dated: April 1, 2013.

Curt G. Wilson,

Associate Chief Counsel, (Passthroughs and Special Industries).

[FR Doc. 2013–08036 Filed 4–5–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0571]

Proposed Information Collection (NCA Customer Satisfaction Surveys (Headstone/Marker) Activity: Comment Request

AGENCY: National Cemetery Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The National Cemetery Administration (NCA), Department of Veterans Affairs (VA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the burden estimates relating to customer satisfaction surveys involving the National Cemetery Administration (NCA).

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 7, 2013.

ADDRESSES: Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *www.Regulations.gov;* or to Mechelle Powell, National Cemetery Administration (43D1), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *mechelle.powell@va.gov.* Please refer to ''OMB Control No. 2900–0571'' in any correspondence. During the comment period, comments may be viewed online through at FDMS.

FOR FURTHER INFORMATION CONTACT: Mechelle Powell at (202) 461–4114 or Fax (202) 273–6695.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct

or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VA's functions, including whether the information will have practical utility; (2) the accuracy of VA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Generic Clearance for NCA, and IG Customer Satisfaction Surveys.

OMB Control Number: 2900–0571.

Type of Review: Extension of a currently approved collection.

Abstract: Executive Order 12862, Setting Customer Service Standards, requires Federal agencies and Departments to identify and survey its customers to determine the kind and quality of services they want and their level of satisfaction with existing service. VA will use the data collected to maintain ongoing measures of performance and to determine how well customer service standards are met.

Affected Public: Individuals or households.

Estimated Annual Burden Hours, Burden per Respondents, and Number of Respondents:

I. National Cemetery Administration Focus Groups

a. *Next of Kin* (5 groups/10 participants per group/3 hours each session) = 150 hours.

b. *Funeral Directors* (5 groups/10 participants per group/3 hours each session) = 150 hours.

c. *Veterans Service Organizations* (5 groups/10 participants per group/3 hours each session) = 150 hours.

II. National Cemetery Administration Visitor Comments Cards (Local Use)

(2,500 respondents/5 minutes per card) = 208 hours.

III. National Cemetery Administration Mail Surveys

a. *Next of Kin National Customer Satisfaction Survey* (Mail to 15,000 respondents/30 minutes per survey) = 7,500 hours

b. *Funeral Directors National Customer Satisfaction Survey* (Mail to 4,000 respondents/30 minutes per survey) = 2,000 hours.

c. *Veterans-At-Large National Customer Satisfaction Survey* (Mail to 5,000 respondents/30 minutes per survey) = 2,500 hours.

IV. Program/Specialized Service Survey

*National Cemetery Administration Headstone and Marker/PMC Survey (*Mail to 6,000 surveys/15 minutes per each) = 1,000.

Frequency of Response: Annually.

Dated: April 3, 2013.

By direction of the Secretary:

Robert C. McFetridge,

Director, Office of Regulations Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

[FR Doc. 2013–08080 Filed 4–5–13; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 78 Monday,

No. 67 April 8, 2013

Part II

The President

Notice of April 4, 2013—Continuation of the National Emergency With Respect to Somalia

Federal Register
Vol. 78, No. 67
Monday, April 8, 2013

Presidential Documents

Title 3—

The President

Notice of April 4, 2013

Continuation of the National Emergency With Respect to Somalia

On April 12, 2010, by Executive Order 13536, I declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the deterioration of the security situation and the persistence of violence in Somalia, acts of piracy and armed robbery at sea off the coast of Somalia, which have repeatedly been the subject of United Nations Security Council resolutions, and violations of the arms embargo imposed by the United Nations Security Council.

On July 20, 2012, I issued Executive Order 13620 to take additional steps to deal with the national emergency declared in Executive Order 13536 in view of United Nations Security Council Resolution 2036 of February 22, 2012, and Resolution 2002 of July 29, 2011, and to address: exports of charcoal from Somalia, which generate significant revenue for al-Shabaab; the misappropriation of Somali public assets; and certain acts of violence committed against civilians in Somalia, all of which contribute to the deterioration of the security situation and the persistence of violence in Somalia.

The situation with respect to Somalia continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on April 12, 2010, and the measures adopted on that date and on July 20, 2012, to deal with that emergency, must continue in effect beyond April 12, 2013. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13536.

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

THE WHITE HOUSE,
April 4, 2013.

[FR Doc. 2013–08310
Filed 4–5–13; 11:15 am]
Billing code 3295–F3

Reader Aids

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