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Contents

Federal Register

Vol. 78, No. 77

Monday, April 22, 2013

Agency for International Development
NOTICES
Analysis of Service Contract Inventory for FY 2011 and Planned Analysis of FY 2012 Inventory, 23735

Agricultural Marketing Service
RULES
Increased Assessment Rates:
Onions Grown in South Texas, 23671–23673
Marketing Orders:
Spearmint Oil Produced in the Far West, 23673–23674
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23736–23737
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Commodities Covered by the Livestock Mandatory Act, 23737–23738

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Forest Service
See National Institute of Food and Agriculture
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23735–23736

Alcohol, Tobacco, Firearms, and Explosives Bureau
RULES
Importation of Defense Articles and Defense Services:
U.S. Munitions Import List, 23675–23677

Animal and Plant Health Inspection Service
NOTICES
Petitions for Determination of Nonregulated Status; Availability:
Monsanto Co. and Forage Genetics International; Genetically Engineered Alfalfa, 23738–23740
Proposed Action Plans:
Swine Brucellosis and Pseudorabies, 23740
Record of Decision:
Gypsy Moth Program, 23740–23741

Army Department
NOTICES
Meetings:
Army Education Advisory Subcommittee, 23759

Broadcasting Board of Governors
NOTICES
Meetings; Sunshine Act, 23743

Census Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Questionnaire Pretesting Research, 23743

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23764–23768
Meetings:
Disease, Disability, and Injury Prevention and Control Special Emphasis Panel, 23768

Centers for Medicare & Medicaid Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23768–23769

Children and Families Administration
NOTICES
Final Issuance on the Adoption of Administration for Native Americans Program Policies and Procedures, 23769–23770

Coast Guard
NOTICES
Meetings:
Chemical Transportation Advisory Committee, 23773–23774

Commerce Department
See Census Bureau
See Industry and Security Bureau
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration
PROPOSED RULES
Implementation of OMB Guidance on Drug Free Workplace Requirements, 23699–23702

Court Services and Offender Supervision Agency for the District of Columbia
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Qualitative Feedback on Agency Service Delivery, 23755–23756

Defense Department
See Army Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23756–23757
Charter Renewals:
Reserve Forces Policy Board, 23757–23759

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Meetings:
Environmental Management Site-Specific Advisory Board, Nevada, 23760
Environmental Management Site-Specific Advisory Board, Northern New Mexico, 23759–23760

Environmental Protection Agency
RULES
State Implementation Plans; Revisions:
California; Imperial County Air Pollution Control District, 23677–23683

PROPOSED RULES
Implementation Plans; Approvals and Promulgations:
Tennessee; New Source Review—Prevention of Significant Deterioration, 23704–23708

Export-Import Bank
NOTICES
Applications for Long-Term Loans or Financial Guarantees in Excess of $100 Million, 23763

Federal Aviation Administration
PROPOSED RULES
Airworthiness Directives:
Bell Helicopter Textron Canada Inc. Helicopters, 23688–23690
Eurocopter Deutschland GmbH (ECD) Helicopters, 23696–23698
Eurocopter France Helicopters, 23686–23688, 23692–23694
Sikorsky Aircraft Corporation Helicopters, 23698–23699
The Boeing Company Airplanes, 23694–23696
The Boeing Company; Withdrawal, 23685–23686, 23690–23692

Federal Communications Commission
NOTICES
Meetings; Sunshine Act, 23763–23764

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 23764

Federal Emergency Management Agency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Community Preparedness and Participation Survey, 23775

Federal Energy Regulatory Commission
NOTICES
Combined Filings, 23760–23762
Records Governing Off-the-Record Communications, 23762–23763

Federal Railroad Administration
NOTICES
Meetings:
Northeast Corridor Safety Committee, 23815–23816

Federal Transit Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23816–23817
Limitation on Claims against Proposed Public Transportation Projects, 23817–23818
Urbanized Area Formula Program; Proposed Circular, 23818–23822

Fish and Wildlife Service
NOTICES
Environmental Assessments; Availability, etc.:
Barton Springs Pool Habitat Conservation Plan, Austin, Travis County, TX, 23780–23781
Quivira National Wildlife Refuge, Stafford, KS, 23778–23780

Foreign Assets Control Office
NOTICES
Blocking or Unblocking of Persons and Property:
Designation of Eighteen Individuals Pursuant to Sergei Magnitsky Rule of Law Accountability Act, 23827

Forest Service
NOTICES
Meetings:
Flathead Resource Advisory Committee, 23741
North Central Idaho Resource Advisorsy Committee, 23741–23742

Health and Human Services Department
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Children and Families Administration
See Health Resources and Services Administration
See National Institutes of Health

Health Resources and Services Administration
NOTICES
Discretionary Advisory Committee on Heritable Disorders in Newborns and Children; Establishment, 23770–23771

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Congressional Earmark Grants, 23778
Section 811 Supportive Housing for Persons with Disabilities Capital Advance Application Submission Requirements, 23776–23777
Small Cities Program Performance Assessment Report, 23777–23778
Tax Credit Assistance Program, 23775–23776

Indian Affairs Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Appointed Counsel in Involuntary Indian Child Custody Proceedings in State Courts, 23782

Industry and Security Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Delivery Verification Procedure for Imports, 23743–23744

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See National Park Service
See Reclamation Bureau

Justice Department
See Alcohol, Tobacco, Firearms, and Explosives Bureau
NOTICES
Proposed Consent Decrees under CERCLA, 23784–23785

Labor Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Standard on 4,4′ – Methylenedianiline in General Industry, 23785

Land Management Bureau
NOTICES
Environmental Impact Statements; Availability, etc.:
Proposed Gibellini Mine Project, Eureka and White Pine Counties, NV, 23782–23783

Maritime Administration
NOTICES
Requests for Administrative Waivers of Coastwise Trade Laws:
Vessel FISHIN GAME, 23823
Vessel SCOUT, 23822
Vessel SEA HAG, 23823–23824

National Archives and Records Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23785–23786

National Highway Traffic Safety Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23824–23825

National Institute of Food and Agriculture
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23742–23743

National Institute of Standards and Technology
NOTICES
Proposed Establishment of Federally Funded Research and Development Center, 23744–23745

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 23773
Eunice Kennedy Shriver National Institute of Child Health and Human Development, 23771–23772
National Institute of Allergy and Infectious Diseases, 23771
National Institute of Diabetes and Digestive and Kidney Diseases, 23771
National Institute on Drug Abuse, 23772

National Oceanic and Atmospheric Administration
RULES
Fisheries of the Exclusive Economic Zone Off Alaska:
Pacific Cod by Catcher/processors Using Trawl Gear in the Central Regulatory Area of the Gulf of Alaska, 23683
PROPOSED RULES
Fisheries of the Northeastern United States:
Atlantic Herring Fishery; Amendment 5, 23733–23734
List of Fisheries for 2013, 23708–23732
NOTICES
Meetings:
South Atlantic Fishery Management Council, 23745–23746
Permits:
Marine Mammals; File No. 17298, 23746
Takes of Marine Mammals Incidental to Specified Activities:
Russian River Estuary Management Activities, 23746–23755

National Park Service
NOTICES
Meetings:
Cape Cod National Seashore Advisory Commission, 23783–23784

Nuclear Regulatory Commission
PROPOSED RULES
Personnel Access Authorization Requirements for Nuclear Power Plants, 23684–23685

Postal Regulatory Commission
NOTICES
Settlement Conferences, 23786–23790

Reclamation Bureau
NOTICES
Meetings:
Colorado River Basin Salinity Control Advisory Council, 23784

Securities and Exchange Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23790–23793
Applications:
Fidelity Merrimack Street Trust, et al., 23793–23800
JPMorgan Chase and Co., et al., 23800–23806
Self-Regulatory Organizations; Proposed Rule Changes:
Miami International Securities Exchange LLC, 23806–23810

Small Business Administration
NOTICES
Privacy Act; Systems of Records, 23810–23811

Social Security Administration
NOTICES
Privacy Act; Systems of Records, 23811–23815

Surface Transportation Board
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23826–23827

Transportation Department
See Federal Aviation Administration
See Federal Railroad Administration
See Federal Transit Administration
See Maritime Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board

Treasury Department
See Foreign Assets Control Office

Veterans Affairs Department
PROPOSED RULES
Copayment for Extended Care Services, 23702–23704
NOTICES
Meetings:
Veterans' Advisory Committee on Rehabilitation, 23827–23828

Reader Aids

Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

2 CFR
Proposed Rules:
1329.....23699

7 CFR
959.....23671
985.....23673

10 CFR
Proposed Rules:
73.....23684

14 CFR
Proposed Rules:
39 (9 documents) 23685, 23686, 23688, 23690, 23691, 23692, 23694, 23696, 23698

15 CFR
Proposed Rules:
29.....23699

27 CFR
447.....23675

38 CFR
Proposed Rules:
17.....23702

40 CFR
52.....23677
Proposed Rules:
52.....23704

50 CFR
679.....23683
Proposed Rules:
229.....23708
648.....23733

Rules and Regulations

Federal Register
Vol. 78, No. 77
Monday, April 22, 2013

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

[Doc. No. AMS–FV–12–0039; FV12–959–1 FR]

Onions Grown in South Texas; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the South Texas Onion Committee (Committee) for the 2012–13 and subsequent fiscal periods from $0.025 to $0.03 per 50-pound equivalent of onions handled. The Committee locally administers the marketing order that regulates the handling of onions grown in South Texas. Assessments upon onion handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period begins August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: *Effective Date:* April 23, 2013.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Marketing Specialist or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 325–8793, or Email: *Doris.Jamieson@ams.usda.gov* or *Christian.Nissen@ams.usda.gov*.

Small businesses may request information on complying with this regulation by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Jeffrey.Smutny@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 959, as amended (7 CFR part 959), regulating the handling of onions grown in South Texas, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, South Texas onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable onions beginning on August 1, 2012, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule increases the assessment rate established for the Committee for the 2012–13 and subsequent fiscal periods from $0.025 to $0.03 per 50-pound equivalent of onions handled.

The South Texas onion marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of South Texas onions. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2009–10 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA based upon a recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on June 26, 2012, and unanimously recommended 2012–13 expenditures of $145,467 and an assessment rate of $0.03 per 50-pound equivalent of onions. In comparison, last year's budgeted expenditures were $190,467. The assessment rate of $0.03 is $0.005 higher than the rate currently in effect. The Committee's 2012–13 crop estimate of five million 50-pound equivalents is lower than the six million estimated for last year, and would not generate adequate assessment income to cover budgeted expenses at the $0.025 rate. With the recommended $0.005 increase, assessment income should approximate $150,000. The increased assessment rate should provide sufficient funds to cover anticipated 2012–13 expenses.

The major expenditures recommended by the Committee for the 2012–13 fiscal period include $46,610 for compliance, $37,050 for administration, and $32,942 for management. Budgeted expenses for these items were the same in 2011–12. The reduction in overall budgeted expenses from $190,467 to $145,467 is due to the elimination of market development programs.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of South Texas onions. Onion shipments for the year are estimated at five million 50-pound equivalents, which should provide $150,000 in assessment income. Income derived from handler assessments, along

with interest income, should be adequate to cover budgeted expenses. Funds in the reserve (currently $107,162) will be kept within the maximum permitted by the order (approximately two fiscal periods' expenses as stated in § 959.43).

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA based upon a recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2012–13 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 85 producers of onions in the production area and approximately 30 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,000,000 (13 CFR 121.201).

According to Committee data and information from the National Agricultural Statistical Service (NASS), the average price for South Texas onions during the 2010–11 season was around $7.35 per 50-pound equivalents and total shipments were approximately 5.4 million 50-pound equivalents. Using the average price and shipment information and assuming a normal distribution, the majority of South Texas onion producers would have annual receipts of less than $750,000. In addition, based on available information, approximately 80 percent South Texas onion handlers could be considered small businesses under SBA's definition. Thus, the majority of South Texas onion producers and handlers may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2012–13 and subsequent fiscal periods from $0.025 to $0.03 per 50-pound equivalent of onions. The Committee unanimously recommended 2012–13 expenditures of $145,467 and an assessment rate of $0.03 per 50-pound equivalent. The assessment rate of $0.03 is $0.005 higher than the 2011–12 rate. The quantity of assessable onions for the 2012–13 fiscal period is estimated at five million 50-pound equivalents, compared to an estimated six million 50-pound equivalents last year. The current assessment rate of $0.025 would not generate sufficient revenue to meet expenses, however the $0.03 rate should provide $150,000 in assessment income and be adequate to meet this year's expenses.

The major expenditures recommended by the Committee for the 2012–13 fiscal period include $46,610 for compliance, $37,050 for administration, and $32,942 for management. Budgeted expenses for these items were the same in 2011–12. The reduction in overall budgeted expenses from $190,467 to $145,467 is due to the elimination of market development programs.

Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Budget and Personnel Committee and the Marketing Committee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various promotional projects to the South Texas onion industry. The assessment rate of $0.03 per 50-pound equivalent of assessable onions was then determined by dividing the total recommended budget by the quantity of assessable onions, estimated at five million 50-pound equivalents for the 2012–13 fiscal period. Assessment income should approximate $150,000, $5,333 above anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2012–13 fiscal period could range between $6.60 and $9.80 per 50-pound equivalent of onions. Therefore, the estimated assessment revenue for the 2012–13 fiscal period, as a percentage of total grower revenue, could range between .3 and .45 percent.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the South Texas onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 26, 2012, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178, Vegetable and Specialty Crops. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule imposes no additional reporting or recordkeeping requirements on either small or large South Texas onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

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

A proposed rule concerning this action was published in the **Federal**

Register on February 5, 2013 (78 FR 8047). Copies of the proposed rule were also mailed or sent via facsimile to all onion handlers. Finally, the proposal was made available through the Internet by USDA and the Office of the Federal Register. A 10-day comment period ending February 15, 2013, was provided for interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *www.ams.usda.gov/MarketingOrdersSmallBusinessGuide*. Any questions about the compliance guide should be sent to Jeffrey Smutny at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because the 2012–13 fiscal period began on August 1, 2012, and the marketing order requires that the assessment rate for each fiscal period apply to all assessable onions handled during such fiscal period. In addition, the Committee needs sufficient funds to pay its expenses, which are incurred on a continuous basis. Further, handlers are aware of this rule which was recommended at a public meeting. Also, a 10-day comment period was provided for in the proposed rule, and no comments were received.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 959 is amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

■ 1. The authority citation for 7 CFR part 959 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 959.237 is revised to read as follows:

§ 959.237 Assessment rate.

On and after August 1, 2012, an assessment rate of $0.03 per 50-pound equivalent is established for South Texas onions.

Dated: April 16, 2013.

David R. Shipman,

Administrator, Agricultural Marketing Service.

[FR Doc. 2013–09381 Filed 4–19–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Doc. Nos. AMS–FV–11–0088; FV12–985–1A FIR]

Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 1 (Scotch) and Class 3 (Native) Spearmint Oil for the 2012–2013 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that revised the quantity of Class 1 (Scotch) and Class 3 (Native) spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2012–2013 marketing year under the Far West spearmint oil marketing order. The interim rule increased the Scotch spearmint oil salable quantity from 782,413 pounds to 2,622,115 pounds and the allotment percentage from 38 percent to 128 percent. In addition, the interim rule increased the Native spearmint oil salable quantity from 1,162,473 pounds to 1,348,270 pounds and the allotment percentage from 50 percent to 58 percent. This change is expected to moderate extreme fluctuations in the supply and price of spearmint oil. Also, this change will help maintain stability in the Far West spearmint oil market.

DATES: Effective June 1, 2012, through May 31, 2013.

FOR FURTHER INFORMATION CONTACT: Barry Broadbent, Senior Marketing Specialist, or Gary Olson, Regional Director, Northwest Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or Email: *Barry.Broadbent@ams.usda.gov* or *GaryD.Olson@ams.usda.gov.*

Small businesses may obtain information on complying with this and other marketing order regulations by viewing a guide at the following Web site: *http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide;* or by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Jeffrey.Smutny@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 985 (7 CFR part 985), as amended, regulating the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of Nevada and Utah), hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

The handling of spearmint oil produced in the Far West is regulated by the order and is administered locally by the Spearmint Oil Administrative Committee (Committee). Under the authority of the order, salable quantities and allotment percentages were established for both Scotch and Native spearmint oil for the 2012–2013 marketing year. However, early in the 2012–2013 marketing year, it became evident to the Committee and the industry that demand for spearmint oil was greater than previously projected and an intra-seasonal increase in the salable quantity and allotment percentage for each class of oil was warranted.

Therefore, this rule continues in effect the action that increased the Scotch spearmint oil salable quantity from 782,413 pounds to 2,622,115 pounds, and allotment percentage from 38 percent to 128 percent. In addition, this rule continues in effect the action that increased the Native spearmint oil salable quantity from 1,162,473 pounds to 1,348,270 pounds, and allotment percentage from 50 percent to 58 percent.

In an interim rule published in the **Federal Register** on December 28, 2012, and effective June 1, 2012, through May 31, 2013, (77 FR 76341, Doc. No. AMS–FV–11–0088, FV12–985–1A IR), § 985.230 was amended to reflect the aforementioned increases in the salable quantities and allotment percentages for Scotch and Native spearmint oil for the 2012–2013 marketing year.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are eight spearmint oil handlers subject to regulation under the order, and approximately 32 producers of Scotch spearmint oil and approximately 88 producers of Native spearmint oil in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

Based on the SBA's definition of small entities, the Committee estimates that two of the eight handlers regulated by the order could be considered small entities. Most of the handlers are large corporations involved in the international trading of essential oils and the products of essential oils. In addition, the Committee estimates that eight of the 32 Scotch spearmint oil producers and 22 of the 88 Native spearmint oil producers could be classified as small entities under the SBA definition. Thus, a majority of handlers and producers of Far West spearmint oil may not be classified as small entities.

The use of volume control regulation allows the industry to fully supply spearmint oil markets while avoiding the negative consequences of over-supplying these markets. Volume control is believed to have little or no effect on consumer prices of products containing spearmint oil and likely does not impact retail sales of such products. Without volume control, producers would not be limited in the production and marketing of spearmint oil. Under those conditions, the spearmint oil market would likely fluctuate widely. Periods of oversupply could result in low producer prices and a large volume of oil stored and carried over to future crop years. Periods of undersupply could lead to excessive price spikes and could drive end users to source flavoring needs from other markets, potentially causing long term economic damage to the domestic spearmint oil industry. The order's volume control provisions have been successfully implemented in the domestic spearmint oil industry since 1980 and provide benefits for producers, handlers, manufacturers, and consumers.

This rule continues in effect the action that increased the quantity of Scotch and Native spearmint oil that handlers may purchase from, or handle on behalf of, producers during the 2012–2013 marketing year, which ends on May 31, 2013. The Scotch spearmint oil salable quantity was increased from 782,413 pounds to 2,622,115 pounds and the allotment percentage was increased from 38 percent to 128 percent. Additionally, the Native spearmint oil salable quantity was increased from 1,162,473 pounds to 1,348,270 pounds and the allotment percentage was increased from 50 percent to 58 percent.

The Committee reached its recommendation to increase the salable quantity and allotment percentage for both Scotch and Native spearmint oil after careful consideration of all available information, believing that the increased volume regulation levels it recommended will achieve the objectives sought. With the increase, the industry will be able to satisfactorily meet the current market demand for both classes of spearmint oil. This rule amends the salable quantities and allotment percentages previously established in § 985.231. Authority for this action is provided in §§ 985.50, 985.51, and 985.52 of the order.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178, Vegetable and Specialty Crop Marketing Orders. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large spearmint oil handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the Far West spearmint oil industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the October 17, 2012, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

Comments on the interim rule were required to be received on or before February 26, 2013. No comments were received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to: *http://www.regulations.gov/#!documentDetail;D=AMS-FV-11-0088-0003.*

This action also affirms information contained in the interim rule concerning Executive Orders 12866 and 12988, the Paperwork Reduction Act (44 U.S.C. Chapter 35), and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (77 FR 76341, December 28, 2012) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

Accordingly, the interim rule that amended 7 CFR part 985 and that was published at 77 FR 76341 on December 28, 2012, is adopted as a final rule, without change.

Dated: April 16, 2013.

David R. Shipman,

Administrator, Agricultural Marketing Service.

[FR Doc. 2013–09377 Filed 4–19–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 447

[Docket No. ATF–50F; AG Order No. 3383–2013]

RIN 1140–AA46

Importation of Defense Articles and Defense Services—U.S. Munitions Import List (2011R–20P)

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is amending Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) regulations to remove the cross reference to the regulatory United States Munitions List (USML) of the International Traffic in Arms Regulations (ITAR) that appears at 27 CFR 447.21; to clarify that the Attorney General exercises delegated authority pursuant to the Arms Export Control Act (AECA) and Executive Order 13637 to designate defense articles and defense services as part of the statutory USML for purposes of permanent import controls, regardless of whether the Secretary of State controls such defense articles or defense services for purposes of export and temporary import; and to clarify that defense articles and defense services controlled pursuant to the Attorney General's delegated AECA authority are part of the statutory USML (along with those that are controlled for export and temporary import by the Secretary of State), but that the list of defense articles and defense services controlled by the Attorney General is labeled the USMIL to distinguish it from the list of defense articles and defense services in the ITAR that are controlled by the Secretary of State.

DATES: This rule is effective April 22, 2013.

FOR FURTHER INFORMATION CONTACT: George M. Fodor, Office of Regulatory Affairs, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, 99 New York Avenue NE, Washington, DC 20226, telephone (202) 648–7994.

SUPPLEMENTARY INFORMATION:

I. Background

Section 38 of the AECA, 22 U.S.C. 2778(a), authorizes the President, in furtherance of world peace and the security and foreign policy of the United States, to control the import and export of defense articles and defense services. The AECA also authorizes the President to designate those defense articles and defense services. *Id.* The items so designated constitute the United States Munitions List (USML). *Id.* The AECA generally requires a license prior to exporting or importing any defense articles and defense services so designated by the President. *See id.* 2778(b)(2).

Through Executive Order 13637, the President has delegated his AECA authority to the Secretary of State with respect to the export and temporary import of defense articles and defense services. The International Traffic in Arms Regulations, 22 CFR part 120 *et seq.,* implement the Secretary of State's delegated authority and list the defense articles and defense services regulated for export and temporary import by the Secretary. Through Executive Order 13637, the President has delegated to the Attorney General the authority under the AECA to control the permanent import of defense articles and defense services. In exercising that authority, the Attorney General ''shall be guided by the views of the Secretary of State on matters affecting world peace, and the external security and foreign policy of the United States.'' The executive order also requires that the Attorney General obtain the concurrence of the Secretary of State and the Secretary of Defense and provide notice to the Secretary of Commerce for designations, including changes in designations, of defense articles and defense services subject to permanent import controls.

Pursuant to section 38(a) of the AECA, all defense articles and defense services, whether controlled for import or export, are part of the USML. But to distinguish the list of defense articles and defense services controlled by the Attorney General for permanent import purposes from the defense articles and defense services controlled by the Secretary of State for purposes of export and temporary import, the list of defense articles and defense services controlled by the Attorney General has been labeled the United States Munitions Import List (USMIL). The regulations governing this list appear at 27 CFR part 447. To date, these regulations have described the USMIL as a subset of the list of defense articles and defense services controlled by the Secretary of State that appears in the ITAR. *See* 27 CFR 447.21.

As the result of a comprehensive review of export controls ordered by the President, it has been determined that certain defense articles and defense services listed on the USML will no longer warrant control for export purposes by the Secretary of State pursuant to AECA. As part of the Administration's ongoing Export Control Reform Initiative, the Departments of State and Commerce are publishing a series of proposed rules that will remove ITAR export controls on certain defense articles and defense services and subject those items instead to export controls through the Commerce Control List (CCL), which is administered by the Department of Commerce as part of its Export Administration Regulations (EAR). *See, e.g.,* 76 FR 41958 (July 15, 2011). Export controls are imposed under both the ITAR and EAR for foreign policy and national security reasons. Accordingly, items on the CCL will continue to be regulated by the Federal Government consistent with the national security and foreign policy interests of the United States.

The Secretary of Commerce administers the EAR pursuant to authority granted by the President in Executive Order 13222 of August 17, 2001, which was issued pursuant to, *inter alia,* sections 202 and 203 of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1701–02. That executive order granted such authority to the Secretary of Commerce following the expiration of the Export Administration Act based on the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the unrestricted access of foreign parties to U.S. goods and technology and the existence of certain boycott practices of foreign nations.

II. Final Rule

Because the Department of Justice regulations at 27 CFR part 447 listing the defense articles and defense services controlled by the Attorney General for purposes of permanent import currently adopt, with some exceptions, the list of defense articles and defense services controlled by the Secretary of State, and because certain defense articles and defense services on the Department of State export control list that appears in the ITAR, 22 CFR 121.1, will, in the future, be removed from that list and controlled for export and temporary import by the Secretary of Commerce, the Department of Justice is clarifying its regulations by amending 27 CFR 447.21, to do the following:

(i) Remove the language adopting the State Department export control list maintained in the ITAR;

(ii) Clarify that the Attorney General exercises delegated authority to

designate defense articles and defense services for inclusion on the USML for purposes of permanent import controls, regardless of whether such items are controlled by the Secretary of State for purposes of export or temporary import; and

(iii) Clarify that the defense articles and defense services regulated for purposes of permanent import pursuant to the AECA authority delegated to the Attorney General appear in the permanent import control list labeled the USMIL, set out at 27 CFR Part 447, and that the USMIL is a subset of the USML pursuant to the AECA.

Accordingly, this final rule amends sections of 27 CFR Part 447 to implement such changes. This rule does not change the content of the USMIL. Revisions to the content of the USMIL, if any, will be addressed by the Attorney General in a separate rulemaking. As required by Executive Order 13637, in designating defense articles and defense services subject to permanent import control under section 38 of the AECA, 22 U.S.C. 2778(a), the Attorney General shall be guided by the views of the Secretary of State on matters affecting world peace and the external security and foreign policy of the United States, and must obtain the concurrence of the Secretary of State and Secretary of Defense and provide notice to the Secretary of Commerce regarding designations, including changes in designations, of defense articles and defense services.

How This Document Complies With the Federal Administrative Requirements for Rulemaking

A. Executive Order 12866

Because the amendments to 27 CFR part 447 involve a foreign affairs function of the United States, Executive Order 12866 does not apply.

B. Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Attorney General has determined that this regulation does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

C. Executive Order 12988

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

D. Administrative Procedure Act

As reflected in 27 CFR 447.54, amendments made to 27 CFR part 447 are exempt from the rulemaking provisions of 5 U.S.C. 553 because this part involves a foreign affairs function of the United States. Accordingly, it is not necessary to issue this rule using the notice and public procedure set forth in 5 U.S.C. 553(b), and the requirement of a delayed effective date in 5 U.S.C. 553(d) does not apply.

E. Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis are not applicable to this rule because the agency was not required to publish a general notice of proposed rulemaking under 5 U.S.C. 553 or any other law.

F. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a ''major rule'' as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

G. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

H. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this rule because there are no reporting or recordkeeping requirements.

Drafting Information

The author of this document is George M. Fodor, Office of Regulatory Affairs, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives.

List of Subjects in 27 CFR Part 447

Administrative practice and procedure, Arms control, Arms and munitions, Authority delegation, Chemicals, Customs duties and inspection, Imports, Penalties, Reporting and recordkeeping requirements, Scientific equipment, Seizures and forfeitures.

Authority and Issuance

Accordingly, for the reasons discussed in the preamble, 27 CFR part 447 is amended as follows:

PART 447—IMPORTATION OF DEFENSE ARTICLES

■ 1. The authority citation for 27 CFR Part 447 is revised to read as follows:

Authority: 22 U.S.C. 2778; E.O. 13637, 78 FR 16129 (Mar. 8, 2013).

■ 2. Revise § 447.1 to read as follows:

§ 447.1 General.

The regulations in this part relate to that portion of section 38 of the Arms Export Control Act of 1976, as amended, authorizing the President to designate defense articles and defense services as part of the United States Munitions List (USML) for purposes of import and export controls. To distinguish the list of defense articles and defense services controlled in this part for purposes of permanent import from the list of defense articles and defense services controlled by the Secretary of State for purposes of export and temporary import, this part shall refer to the defense articles and defense services controlled for purposes of permanent import as the U.S. Munitions Import List (USMIL) and shall refer to the export and temporary import control list set out by the Department of State in its International Traffic in Arms Regulations as the USML. Part 447 contains the USMIL and includes procedural and administrative requirements relating to registration of importers, permits, articles in transit, import certification, delivery verification, import restrictions applicable to certain countries, exemptions, U.S. military firearms and ammunition, penalties, seizures, and forfeitures. The President's delegation of permanent import control authorities to the Attorney General provides the Attorney General the authority to assess whether controls are justified, but in designating the defense articles and defense services set out in the USMIL the Attorney General shall be guided by the views of the Secretary of State on matters affecting world peace and the external security and foreign policy of

the United States. All designations and changes in designations of defense articles and defense services subject to permanent import control under this part must have the concurrence of the Secretary of State and the Secretary of Defense, with notice given to the Secretary of Commerce.

■ 3. Amend § 447.11 by revising the definition of the term ''Article'' to read as follows:

§ 447.11 Meaning of terms.

* * * * *

Article. Any of the defense articles enumerated in the U.S. Munitions Import List (USMIL).

* * * * *

■ 4. Amend § 447.21 as follows:
■ a. Revise the introductory text.
■ b. Remove the second ''Note'' in Category IV.
■ c. Add and reserve after Category IV a heading ''Category V''.
■ d. In Category VII, remove the ''Note'' after paragraph (c) and add and reserve paragraphs (d) and (e).
■ e. In Category VIII, revise the title and remove the first ''Note'' after paragraph (a) and in its place add and reserve paragraph (b).
■ f. Add and reserve after Category VIII a heading ''Categories IX through XIII''.
■ g. Remove the ''Note'' after paragraph (b) in Category XVI.
■ h. Add and reserve after Category XVI a heading ''Categories XVII through XIX''.
■ i. Revise Category XXI.

These amendments to § 447.21 read as follows:

§ 447.21 The U.S. Munitions Import List.

The following defense articles and defense services, designated pursuant to section 38(a) of the Arms Export Control Act, 22 U.S.C. 2778(a), and E.O. 13637 are subject to controls under this part. For purposes of this part, the list shall be known as the U.S. Munitions Import List (USMIL):

THE U.S. MUNITIONS IMPORT LIST (USMIL)

* * * * *

CATEGORY V [Reserved]

* * * * *

CATEGORY VII—TANKS AND MILITARY VEHICLES

* * * * *

(d) [Reserved]
(e) [Reserved]

* * * * *

CATEGORY VIII—AIRCRAFT AND ASSOCIATED EQUIPMENT

* * * * *

(b) [Reserved]

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CATEGORIES IX–XIII [Reserved]

* * * * *

CATEGORIES XVII–XIX [Reserved]

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CATEGORY XXI—MISCELLANEOUS ARTICLES

Any defense article or defense service not specifically enumerated in the other categories of the USMIL that has substantial military applicability and that has been specifically designed or modified for military purposes. The decision as to whether any article may be included in this category shall be made by the Attorney General with the concurrence of the Secretary of State and the Secretary of Defense.

Dated: April 17, 2013.

Eric H. Holder, Jr.,

Attorney General.

[FR Doc. 2013–09392 Filed 4–19–13; 8:45 am]

BILLING CODE 4410–FY–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0960; FRL–9799–3]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of revisions to the Imperial County Air Pollution Control District (ICAPCD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on January 7, 2013 and concerns local rules that regulate inhalable particulate matter (PM) emissions from sources of fugitive dust such as unpaved roads and disturbed soils in open and agricultural areas in Imperial County. We are approving local rules that regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: This rule will be effective on May 22, 2013.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2012–0960 for this action. Generally, documents in the docket for this action are available electronically at *http://www.regulations.gov* or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *http://www.regulations.gov*, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be available in either location (e.g., confidential business information (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: Christine Vineyard, EPA Region IX, (415) 947–4125, *vineyard.christine@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

Table of Contents

I. Proposed Action
II. Public Comments and EPA Responses
III. EPA Action
IV. Statutory and Executive Order Reviews

I. Proposed Action

On January 7, 2013 (78 FR 922), EPA proposed to approve the following rules into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
ICAPCD	800	General Requirements for Control of Final Particulate Matter (PM_{10})	10/16/12	11/07/12
ICAPCD	804	Open Areas	10/16/12	11/07/12
ICAPCD	805	Paved and Unpaved Roads	10/16/12	11/07/12
ICAPCD	806	Conservation Management Practices (CMPs)	10/16/12	11/07/12

We proposed to approve these rules because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received from the following parties:

1. Luis Olmedo, Comite Civico Del Valle (Comite), letter dated September 20, 2012 (resubmitted via email January 3, 2013).

2. Lisa Belenky, Center for Biological Diversity (CBD), letter dated September 20, 2012 (resubmitted via email February 6, 2013).

3. Eric Massey, Arizona Department of Environmental Quality (ADEQ), letter dated February 6, 2013.

Comment #1—Comite claims that ICAPCD Rule 800 does not meet Best Available Control Measure (BACM) requirements because it does not address recreational off-highway vehicle (OHV) use on private land. The comment mentions OHV requirements in Arizona and Nevada that apply on both public and private land. The comment acknowledges that Rule 804 would regulate OHV use on private land, but asserts that it is not enforceable because it does not require dust control plans (DCPs).

Response #1—The private land OHV restrictions in ICAPCD Rule 804 are more stringent than the public land OHV restrictions in Rule 800. Rule 804 Section E.1 requires all persons with jurisdiction over even relatively small open areas to maintain a stabilized surface at all times and limit visible dust emissions (VDE) to 20% opacity. This effectively prohibits OHV activity on private land because significant OHV activity on a dirt lot would generally lead to unstabilized surfaces and over 20% opacity. Additionally, Rule 804 Section E.2 requires private land owners to prevent illegal OHV activity by posting signs or installing physical barriers.

Comment #2—Comite claims that ICAPCD has not, as directed in EPA's limited disapproval, evaluated ''the feasibility and impacts of additional restrictions in recreational OHV areas, such as closing some of the 250 square miles that are open to OHV use * * *.''

Response #2—Such evaluation was performed and included in APCD's submittal of the Regulation VIII SIP revisions.[1] Sections 3 and 4 of this evaluation list and analyze the feasibility and impacts of additional OHV restrictions including restrictions on OHV locations. Regarding the potential to close some of the 250 square miles, for example, section 4.1 states that, ''BLM and State Parks officials believe that further limiting the size of OHV areas would have the effect of increasing illegal OHV activity on non-travelled lands.''

Comment #3—Comite states that ICAPCD Rule 802 does not fulfill BACM requirements because it inappropriately exempts transportation/hauling of bulk material within a facility's property, eviscerating the intent of Rule 802. The comment notes that South Coast Air Quality Management District (SCAQMD) Rule 403(g) does not include this exemption.

Response #3—We agree that Imperial Rule 802 would be improved by removing the exemption for transportation/hauling of bulk material within a facility's property similar to SCAQMD 403(g). However, bulk material, the subject of Imperial Rule 802, has not been identified as a significant PM_{10} source subject to BACM requirements.[2] As a result, ICAPCD is not required to improve Rule 802 in this way at this time, ICAPCD did not revise and resubmit Rule 802, and EPA is not acting on Rule 802 at this time.

Comment #4—Comite states that ICAPCD Rule 803 does not fulfill BACM requirements because it inappropriately exempts agricultural roads from track-out requirements unlike other areas in California including San Joaquin Valley Air Pollution Control District (SJVAPCD).

Response #4—The comment does not identify and we are not aware of any specific SJVAPCD track-out requirements that are more stringent than ICAPCD requirements. SJVAPCD's general carryout and track-out rule specifically exempts agricultural operations.[3] SJVAPCD's agricultural dust rule simply requires that agricultural roads comply with California State law regarding track-out,[4] to which Imperial County sources are also subject. In addition, ICAPCD Rule 806 includes track-out BACM for agricultural operations comparable to those in SJVAPCD's analogous conservation management practices (CMP) requirements.[5]

Comment #5—Comite states that ICAPCD Rule 804 does not fulfill BACM requirements because it imposes minimal controls on disturbed open lots above certain sizes with no regard as to what activities, beyond OHV, are occurring. The comment claims that SCAQMD Rule 403, in contrast, controls lots of any size with disturbed surface area and contains additional control, permitting and reporting requirements on other types of activities, including construction and confined animal facilities (CAF).

Response #5—ICAPCD estimates that over 99.5% of open areas potentially affected by ICAPCD Rule 804 are in parcels of 3 acres or greater.[6] We expect, therefore, that lowering this threshold would have very limited emission impact while being relatively expensive by applying to the smallest sources. ICAPCD also notes that SJVAPCD Rule 8051 has a similar 3 acre threshold previously approved as BACM and projected to capture 98% of parcel acreage in SJVAPCD.[7] ICAPCD Rule 804 contains relatively stringent enforceable requirements common to other approved dust regulations found elsewhere (e.g., SJVAPCD 8051). Sources must maintain records demonstrating that they have limited opacity to 20% by one of three defined soil stabilization techniques. The comment notes that SCAQMD Rule 403 imposes additional requirements on other activities, including construction and CAFs. However, ICAPCD provides additional requirements for these activities in other regulations (ICAPCD Rule 801, Construction and Earthmoving Activities, and Rule 217, Large Confined Animal Facilities Permits Required) which are not subject of today's action. In addition, neither construction nor CAFs have been identified as significant PM_{10} sources subject to BACM requirements.[8] As a result, ICAPCD is not required to apply BACM to these sources at this time and EPA is not acting on ICAPCD Rules 217 or 801. However, we agree that SCAQMD Rule 403 does impose some additional specific requirements that

[1] ''Off-Highway Vehicle Area Best Available Control Measures Assessment,'' prepared for ICAPCD by Environ International Corporation, October 2012 (2012 BACM assessment).

[2] See, e.g., 75 FR 8010 (February 23, 2010).

[3] ''Carryout and Trackout,'' SJVAPCD Rule 8041, Section 4.0, adopted August 19, 2004.

[4] ''Agricultural Sources,'' SJVAPCD Rule 8081, Section 5.4, adopted September 16, 2004.

[5] ''List of Conservation Management Practices,'' May 20, 2004, referenced by ''Conservation Management Practices,'' SJVAPCD Rule 4550, adopted August 19, 2004.

[6] ''Draft Final Technical Memorandum, Regulation VIII BACM Analysis,'' Prepared for ICAPCD by Environ International Corp, October 2005 (2005 BACM Analysis), Appendix C, pg. C–19.

[7] Ibid.

[8] See, e.g., 75 FR 8010 (February 23, 2010).

ICAPCD should consider if additional emission reductions are needed in the future. We also note that ICAPCD previously considered additional specificity such as that included in SCAQMD Rule 403, but determined it was not more stringent than ICAPCD Regulation VIII.[9]

Comment #6—Comite asserts that ICAPCD Rule 805 does not fulfill BACM requirements because it inappropriately exempts agricultural roads, and regulates them under less stringent requirements in ICAPCD Rule 806. This exemption is contrary to EPA's earlier recommendations that, ''ICAPCD must remove the exemption in Rule 805 Section D.2 or demonstrate how BACM is met in Imperial County for farm roads and traffic areas that are subject to less stringent requirements than other roads and traffic areas in the County and farm roads and traffic areas in other areas.'' The comment mentions, in contrast, SJVAPCD requirements.

Response #6—The comment is correct that EPA previously identified the exemption in ICAPCD Rule 805 Section D.2 as a rule deficiency, and ICAPCD has not removed this exemption from Rule 805.[10] However, ICAPCD has addressed the substance of this deficiency by establishing appropriate opacity limits and stabilization requirements for agricultural roads, in addition to CMP requirements, in Rule 806, particularly in Sections E.3 and E.4. These requirements are analogous to, and more stringent than,[11] analogous requirements in SJVAPCD. See also Response #11 below.

Comment #7—Comite states that ICAPCD Rule 805 Section E.7 does not fulfill BACM requirements because it fails to enforceably require compliance with road paving requirements. The comment states that this lack of enforceability is a particular concern because EPA has stated that Imperial County must expedite these road paving requirements or, ''demonstrate good faith efforts to increase funding and priority of road stabilization projects consistent with national guidance.''

Response #7—EPA previously identified ICAPCD Rule 805 Section E.7 as deficient because it was not clear that the County was required to implement (and not just submit) a stabilization plan; stabilize different unpaved roads each year; and maintain all stabilized roads.[12] Adopted and submitted revisions to ICAPCD Rule 805 Sections E.7.b and c explicitly and adequately address these concerns. For example, Section E.7.b was revised to explicitly require plan compliance. In addition, ICAPCD adequately demonstrated ''good faith efforts to increase funding and priority of road stabilization projects,'' by correspondence from the County Public Works Department explaining budget efforts[13] along with information provided in ICAPCD's 2009 PM_{10} SIP.[14] We assume this addresses the concerns of the comment as we are not aware of any other enforcement concerns with Rule 805 Section E.7.

Comment #8—Comite asserts that ICAPCD Rule 805 does not fulfill BACM requirements because it does not impose sufficiently stringent control measures. Specifically, the comment notes that while SCAQMD Rule 403 and Imperial Rule 805 Section E both impose controls based on the type of road, SCAQMD Rule 403 also requires additional measures for roads used for construction activity or large operations.

Response #8—SCAQMD Rule 403 contains few requirements specific to roads used at construction activity or large operations and it is not clear which requirements are subject of this comment. We note the following specific requirements in Rule 403 Table 1 regarding construction: Section 15–1, stabilize all off-road traffic and parking areas; section 15–2, stabilize all haul routes; and section 15–3, direct construction traffic over established haul routes. Similarly we note in Rule 403 Table 2 regarding large operations: Section 4a, water all roads used for any vehicular traffic at least once per every two hours of active operations; or section 4b, water all roads used for any vehicular traffic once daily and restrict vehicle speeds to 15 miles per hour; or section 4c, apply a chemical stabilizer to all unpaved road surfaces in sufficient quantity and frequency to maintain a stabilized surface. We do not see a direct analog to section 15–3 in ICAPCD Rules 801 or 805, although we would not expect significant emission impacts partly because construction sites are incentivized to minimize the active roads requiring stabilization. The comment has not provided and we have no evidence that the other SCAQMD requirements listed above are more stringent than the road stabilization requirements in ICAPCD Rules 801 and 805. We also note that construction has not been identified as a significant PM_{10} source subject to BACM requirements in ICAPCD.[15] As a result, ICAPCD is not required to submit Rule 801 at this time and EPA is not acting on Rule 801 in this action.

Comment #9—Comite states that ICAPCD Rule 806 does not fulfill BACM requirements and is rendered unenforceable because it lacks a CMP application submittal and review process, and requires only that agricultural operators maintain a CMP plan and records to confirm implementation. The comment asserts (and references *Latino Issues Forum* v. *EPA* and EPA's 2010 action on Rule 806 for this assertion) that BACM requires that Rule 806 maintain an application submittal and review process such as contained in SJVAPCD Rule 4550 and Great Basin Unified Air Pollution Control District (GBUAPCD) Rule 502.

Response #9—EPA's 2010 limited approval/disapproval of Regulation VIII notes that the CMPs, ''are broadly defined and there is no other mechanism in the rule to ensure specificity.''[16] As suggested here and made clearer in EPA's TSD supporting our 2010 proposed action,[17] the deficiency in the rule is the lack of specificity in defining the CMPs. The most direct way to address this is to more specifically define the CMPs. Alternatively, this deficiency could be addressed by adding a CMP application submittal and approval process, such as contained in SJVAPCD Rule 4550.[18] ICAPCD has selected the former approach in revising ICAPCD Rule 806, and has adequately addressed this rule deficiency by extensively clarifying and strengthening numerous CMP definitions and related text in Rule 806. In doing so, ICAPCD has incorporated sufficient clarity and specificity directly into the CMP definitions and requirements so that CMP implementation and enforceability at a BACM level is clear to all parties. For example, the definition of mulching in Rule 806 Section C.30 was revised from: ''Applying or leaving plant residue or

[9] 2005 BACM analysis, appendix B, pg. B–6.

[10] 75 FR 39367 (July 8, 2010).

[11] SJVAPCD Rule 4550 requires opacity limits and stabilization on unpaved roads when daily vehicle trips (VDT) are 75 or more or 25 VDT for 3-axle vehicles, whereas ICAPCD Rule 806 contains these requirements for 50 or more VDT or 20 VDT for 3-axle vehicles.

[12] Ibid.

[13] Letter from William Brunet (Imperial County Department of Public Works) to Brad Poiriez (ICAPCD), May 11, 2012, included as part of comment #4 in CARB's 2012 Regulation VIII SIP submittal to EPA.

[14] ''2009 Imperial County State Implementation Plan for Particulate Matter Less Than 10 Microns in Aerodynamic Diameter, Final,'' adopted by ICAPCD Governing Board on August 11, 2009, e.g., section 4.2.5, pg. 4–7.

[15] See, e.g., 75 FR 8010 (February 23, 2010).

[16] 75 FR 39367 (July 8, 2010).

[17] ''Technical Support Document for EPA's Proposed Rulemaking on Revisions to the California State Implementation Plan as submitted by the State of California, for the Imperial County Air Pollution Control District,'' U.S. EPA, Region 9 Air Division, February 2010, (2010 TSD) pg. 9.

[18] See *Latino Issues Forum* v. *EPA,* 558 F.3d 936, 949 (9th Cir. 2009).

other material to soil surface. It reduces entrainment of PM due to winds as well as reduces weed competition thereby reducing tillage passes and compaction.'' The new text reads: ''Reducing PM_{10} emissions and wind erosion and preserving soil moisture by uniformly applying a protective layer of plant residue or other material to a soil surface prior to disturbing the site to reduce soil movement. Mulching material shall be evenly applied, and if necessary, anchored to the soil. Mulch should achieve a minimum 70% cover, and a minimum of 2 inch height above the surface. Inorganic material used for mulching should consist of pieces of .75 to 2 inches in diameter.'' [19]

Comment #10 (p.8)—Comite notes that ICAPCD Rule 806 only applies to farms above 40 acres, while SCAQMD and Maricopa's rules apply to farms above 10 acres, and Comite claims that ICAPCD's BACM analysis does not address whether lowering Rule 806's threshold could obtain further emission reductions that are significant and economically feasible.

Response #10—It is standard practice for air pollution regulations to exempt small sources which contribute relatively few emissions and are the least cost-effective to control. ICAPCD's 2009 PM_{10} SIP estimates that Rule 806's 40 acre threshold captures 97% of total emissions,[20] suggesting that there are no further emission reductions that are significant and economically feasible. While SCAQMD and Maricopa have lower applicability thresholds than ICAPCD, rules approved as BACM in other areas have higher thresholds (e.g., SJVAPCD's is 100 acres). We also note that this threshold remains unchanged from the previous version of ICAPCD Rule 806, and no comments were provided when EPA acted on it in 2010.

Comment #11—Comite claims that ICAPCD Rule 806 imposes insufficient controls on unpaved farm roads compared to Rule 805 requirements for Imperial non-farm roads and other area requirements for farm roads. As an example, the comment notes that SJVAPCD requires farm roads to meet control measures required for agricultural operations in addition to general requirements that apply to all other roads.

Response #11—We agree that this was a deficiency of the previous version of ICAPCD Regulation VIII. However, ICAPCD has revised Rule 806 Sections D.2, D.3, E.3 and E.4 to specifically and adequately address this issue. Revised Section E.3, for instance, now requires stabilization of agricultural unpaved roads with 50 or more vehicle daily trips (VDT), similar to that required of non-agricultural roads with 50 or more VDT in ICAPCD Rule 805 Section E.2., and of all unpaved roads with 75 or more VDT subject to SJVAPCD Rule 8081 Section 5.2. See also Response #6 above.

Comment #12—Comite asserts that ICAPCD Rule 806's windblown dust controls are inadequate and generally describes the requirements in SCAQMD Rule 403's Agricultural Handbook. The comment states that SCAQMD requires cessation of soil preparation and maintenance activities when winds exceed 25 mph, as well as implementation of one of four specific practices to reduce windblown dust from actively disturbed fields and three of nine specific practices to reduce windblown dust from inactive (fallow) fields.

Response #12—SCAQMD's Agricultural Handbook and Imperial Rule 806 are structured somewhat differently, making a direct comparison between the two programs difficult.[21] For example, SCAQMD does not specifically refer to the prohibition on tilling or mulching when wind speeds exceed 25 mph as a ''windblown dust control,'' whereas ICAPCD Rule 806 includes specific provisions, E.6.1 and 2, as ''windblown dust controls.'' Nevertheless, we note that the SCAQMD prohibition applies only when winds exceed 25 mph. In comparison, ICAPCD requires operators to comply with the windblown dust controls specified in E.6.1. (for active cultivation) and E.6.2. (for fallow fields), regardless of wind speed. The commenter provides no evidence for a finding that the SCAQMD prohibition is more effective than ICAPCD's more generally applicable requirements.

The comment also states that SCAQMD requires operators to comply with ''one of four specific practices to reduce windblown dust from actively disturbed fields.'' Again, because the SCAQMD rule does not specifically refer to ''windblown dust,'' it is difficult to determine whether SCAQMD distinguishes between regulating ''windblown dust'' and regulating fugitive dust directly emitted during tillage, cultivation, and mulching operations. Nevertheless, we note that the SCAQMD rule requires selection and implementation of one option for ''active lands,'' whereas ICAPCD regulates direct emissions of fugitive dust by requiring selection and implementation of three options, one each from three separate categories of activities: (1) Land preparation (E.1.); (2) harvest (E.2.); and (3) cropland-other (E.5.).

For inactive operations, SCAQMD requires operators to select and comply with three of eight specified practices; we believe the comparable provisions for ICAPCD are found at section E.6.1. of Rule 806, in which ICAPCD requires selection and compliance with one of eight specified practices. We note that the practices specified in the SCAQMD rule for inactive lands are essentially identical to the practices specified in E.6.2. of the ICAPCD rule for fallow lands.

Although it appears that SCAQMD requires more measures for inactive lands than ICAPCD requires for fallow lands, the commenter does not acknowledge other ways in which the ICAPCD rule is more stringent than the SCAQMD program. Overall, both the SCAQMD and ICAPCD programs require agricultural operations to comply with five options each: SCAQMD requires compliance with the 25 mph prohibition, one option for active cultivation and three options for inactive lands; ICAPCD requires selection and implementation of one option to control windblown dust on actively cultivated lands, three additional options for actively cultivated lands, and one option for fallow lands. The commenter provided no information to support a finding that SCAQMD's approach of imposing more requirements on inactive lands is more stringent or more effective at controlling fugitive dust than ICAPCD's approach of imposing more requirements on actively cultivated lands. As we have noted previously, regulations for agricultural sources must be sufficiently flexible to account for the wide range of factors such as crop type, herd size, equipment type, soil type, weather and market conditions, economic circumstances and facility size. In addition, there is a limited amount of technical information regarding the cost effectiveness of available control measures for agricultural operations. *See* 71 FR 7684 (February 14, 2006). As a result, it is reasonable to expect that BACM measures for this activity would vary depending on the agricultural practices in different areas and, in fact, Maricopa, South Coast, and San Joaquin agricultural CMP rules have all been

[19] ''Technical Support Document for EPA's Notice of Proposed Rulemaking on Revisions to the California State Implementation Plan as submitted by the State of California, for the Imperial County Air Pollution Control District,'' U.S. EPA, Region 9 Air Division, December 2012, (2012 TSD) pg. 8.

[20] 2010 TSD, pg 12.

[21] We note that the commenter lists the general requirements in the SCAQMD rule but does not provide any comparison or analysis of the two programs.

approved as BACM despite differences similar to that identified in the comment. Finally, we note that the Imperial Rule 806 is based on and is at least as stringent as SJVUAPCD Rule 4550, which EPA approved as having BACM-level controls. *Id.*

Comment #13—Comite states that ICAPCD Rule 802 Section D.1 and Rule 806 Section D.4 provide ICAPCD with excessive discretion to alter SIP-approved control measures, particularly with regard to deviations from required control measures (Rule 802) and development of alternative control measures (Rule 806). The comment notes that EPA's 2010 action on Regulation VIII specifically identified the discretion in Rule 802 Section D.1 as a deficiency.

Response #13—We agree that Rule 802 Section D.1 would be improved by removing the discretion described in the comment. However, bulk material, the subject of Imperial Rule 802, has not been identified as a significant PM_{10} source subject to BACM requirements. As a result, ICAPCD is not required to improve Rule 802 in this way at this time, ICAPCD did not revise and resubmit Rule 802, and EPA is not acting on Rule 802 at this time. See also Response #3 above. With regard to the commenter's reference to Rule 806, Section D.4, we assume the comment intended to refer to Rule 806 Section D.6 which contains discretion. This discretion is similar to discretion approved in SJVAPCD Rule 4550 Section 6.2.3.2, and has been restricted by requiring alternative CMPs in ICAPCD to be at least equivalent to the most effective CMPs already available. While such discretion may not be appropriate for more traditional stationary sources, it is reasonable at this time given the variability and limited regulatory history of the affected sources.[22] As ICAPCD gains experience regulating this industry, it may be appropriate to reduce this discretion in the future.

Comment #14—Comite asserts that EPA cannot stay CAA sanctions based on a proposed approval of revised Regulation VIII, but only upon final and full approval.

Response #14—As explained in our Interim Final Rule, we invoked the good cause exception under the APA as the basis for not providing public comment before the action took effect.[23] Our review of the State's submittal indicated that it was more likely than not that the State had submitted a revision to the SIP that addressed the issues we identified in our earlier action that started the sanctions clocks. We concluded that it was therefore not in the public interest to impose sanctions. Our use of the good cause exception thus relieved restrictions that were unnecessary because the State had already taken the steps it needed to take to submit an approvable rule. The only action that remained to be taken was EPA's action to complete our rulemaking, including reviewing and responding to public comments on our proposed action. As explained in our Interim Final Rule, we could have disapproved the rule, if justified by public comments. However, we are now finalizing our action with an approval of the State's submittal, which further supports the reasonableness of our use of the good cause exception to avoid needless hardship on entities and individuals in the Imperial Valley.

Comment #15—CBD claims that proposed rule revisions are inadequate to address the serious and ongoing PM_{10} air pollution concerns in Imperial County, particularly regarding emissions due to OHV use on public lands. The comment asks EPA to reject the rule revisions because they will not adequately improve air quality as required by law.

Response #15—ICAPCD revised and resubmitted Regulation VIII primarily to address the CAA obligation for PM_{10} BACM, and EPA is similarly evaluating the rules primarily to ensure that they fulfill BACM. The broader air pollution issues raised by this comment, as to whether the rules are sufficient to address Imperial's overall PM_{10} problem, are appropriately addressed separately through the CAA obligations for ICAPCD and CARB to develop a PM_{10} attainment demonstration.

Comment #16—CBD states that the proposed rule revisions fail to provide sufficient guidance, limitations or enforcement measures to ensure that the OHV DCPs are adequate and fully implemented. The comment asserts that the revised rule relies on good faith implementation by the Bureau of Land Management (BLM) and California Department of Parks and Recreation (DPR), which is not warranted by past practice.

Response #16—ICAPCD has significantly revised the OHV DCP requirements in ICAPCD Rule 800 Sections D.3 and F to make them more stringent and enforceable. For example, Section F.5.b.2 now requires maps showing OHV areas, Section F.5.c now explicitly requires stabilization of high-traffic roads and traffic areas during OHV events, Section F.5.d now requires description of all monitoring and corrective action to reduce emissions during OHV events, and Section F.7 establishes additional requirements for new OHV areas. While we agree that some of the OHV requirements are not as specific and prescriptive as many requirements for traditional stationary sources (e.g., facility X must emit under Y pounds/day), they are adequately enforceable and appropriate given the variability (e.g., the popularity and thus emissions of specific OHV areas change over time) and limited regulatory history of this activity. We also believe these controls are sufficiently stringent to fulfill the CAA BACM requirements as demonstrated by the 2012 BACM assessment. See also Response #2 above. However, we encourage ICAPCD to consider further controls in OHV areas if additional emission reductions are needed in the future to meet federal and/or State ambient air quality standards.

Comment #17—CBD states that BLM recently issued a proposed Recreational Area Management Plan (RAMP) and Final Environmental Impact Statement (FEIS) proposing to increase the area in Imperial open to OHV use by 40,000 acres, further increasing PM_{10} emissions. The comment notes that EPA had previously expressed concerns about potential increased air quality impacts of the BLM's preferred alternative in the FEIS and that BLM largely ignored EPA's comments. The comment asserts that additional shortcomings of the FEIS are further evidence that BLM cannot be relied on for good-faith efforts to comply with ICAPCD Rule 800.

Response #17—EPA's previous comments regarding BLM's RAMP and FEIS are independent of today's action on revisions to ICAPCD's Regulation VIII. Revisions to Rule 800 Section F.7 establish additional requirements for new OHV areas, but do not prohibit increased OHV areas and associated PM_{10} emissions. ICAPCD Regulation VIII's OHV requirements are adequately enforceable and do not rely solely on good-faith efforts at compliance. See also Response #16 above.

Comment #18—ADEQ recommends that EPA continue to evaluate BACM on a case-by-case basis, considering the relative contributions of source categories such as OHVs, to ensure that the most cost-effective control measures appropriate for contributing anthropogenic sources in each planning area are adopted and implemented.

Response #18—EPA agrees that local conditions should be considered as part of a BACM analysis and ICAPCD has included such information in its BACM analysis. For example, EPA agrees that

[22] See, e.g., 71 FR 7684 and 7686 (February 14, 2006).

[23] 78 FR 894 (January 7, 2013).

ICAPCD has adequately demonstrated BACM for OHV activity based in part on the 2012 BACM assessment which includes discussion of local conditions (e.g., less than 1% of open lands are urban vacant areas in Imperial County compared to 52% of Maricopa's nonattainment area open lands.) [24]

Comment #19—ADEQ does not support any presumption that inclusion of prerequisites similar to those in ICAPCD Rule 801 Section D are necessary to determine that a rule is BACM. Rather, the comment encourages EPA to continue reviewing each rule in the context of each area's overall air pollution control strategy when making a determination that a rule fulfills BACM or most stringent control measure requirements.

Response #19—As mentioned in Response #18 above, we agree that local conditions should be considered as part of a BACM analysis. We also believe that the existence of requirements in other areas should be considered as part of a BACM analysis. For example, it would be relevant for a BACM analysis for OHV in Arizona to consider both ICAPCD Rule 801 and any local conditions specific to Arizona. However, today's action regards ICAPCD Rules 800, 804, 805 and 806, and nothing in the comment suggests any change to our proposed approval.

III. EPA Action

No comments changed our assessment of the rule as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving these rules into the California SIP. This action permanently terminates all sanctions and FIP implications associated with the July 8, 2010 final action.

EPA's preliminary view is that the Regulation VIII rules as revised in October 2012 constitute reasonable control of the sources covered by Regulation VIII for the purpose of evaluating whether an exceedance of the PM_{10} NAAQS is an exceptional event pursuant to the exceptional events rule, including reasonable and appropriate control measures on significant contributing anthropogenic sources. This statement does not extend to exceedances of NAAQS other than the PM_{10} NAAQS, or to events that differ significantly in terms of meteorology, sources, or conditions from the events that were at issue in EPA's July 2010 final action and associated litigation. EPA is not making any determinations at this time with respect to any specific PM_{10} exceedances.

[24] 2012 BACM Assessment, pg. 8.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 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 that reason, this action:

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

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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 21, 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, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 27, 2013.

Alexis Strauss,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52 [AMENDED]

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(424) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(424) New and amended regulations for the following APCDs were submitted

on November 7, 2012 by the Governor's designee.

(i) Incorporation by Reference

(A) Imperial County Air Pollution Control District

(*1*) Rule 800, ''General Requirements for Control of Fine Particulate Matter PM10,'' amended on October 16, 2012.

[*2*] Rule 804, ''Open Areas,'' amended on October 16, 2012.

[*3*] Rule 805, ''Paved and Unpaved Roads,'' amended on October 16, 2012.

[*4*] Rule 806, ''Conservation Management Practices (CMPs),'' amended on October 16, 2012.

[FR Doc. 2013–09307 Filed 4–19–13; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 120918468–3111–02]

RIN 0648–XC605

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processors Using Trawl Gear in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher/processors (C/Ps) using trawl gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2013 Pacific cod total allowable catch apportioned to C/Ps using trawl gear in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), April 17, 2013, through 1200 hours, A.l.t., September 1, 2013.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The A season allowance of the 2013 Pacific cod total allowable catch (TAC) apportioned to C/Ps using trawl gear in the Central Regulatory Area of the GOA is 726 metric tons (mt), as established by the final 2013 and 2014 harvest specifications for groundfish of the GOA (78 FR 13162, February 26, 2013).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the A season allowance of the 2013 Pacific cod TAC apportioned to C/Ps using trawl gear in the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 526 mt, and is setting aside the remaining 200 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by C/Ps using trawl gear in the Central Regulatory Area of the GOA. After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of Pacific cod for C/Ps using trawl gear in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of April 16, 2013.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 17, 2013.

Kara Meckley,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–09389 Filed 4–17–13; 4:15 pm]

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Proposed Rules

Federal Register
Vol. 78, No. 77
Monday, April 22, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

[Docket No. PRM–73–16; NRC–2013–0024]

Personnel Access Authorization Requirements for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of receipt and request for comments.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is publishing for comment a notice of receipt of a petition for rulemaking (PRM) filed with the Commission by Ellen C. Ginsberg on behalf of the Nuclear Energy Institute (NEI or the petitioner) on January 25, 2013. The petition was docketed by the NRC on February 4, 2013, and has been assigned Docket No. PRM–73–16. The petitioner requests that the NRC amend its regulations to limit the scope of third-party review of licensee decisions denying or revoking an employee's unescorted access at their facility. The petitioner seeks to ensure that such decisions cannot be overturned by any third party. The petitioner also requests an expedited review of this petition based on pending arbitration cases that will be affected by NRC action on this petition. The NRC has reviewed the petitioner's request for an expedited review of this petition and has determined that the petition should be expedited due to the aforementioned pending arbitration cases. Therefore, the NRC is limiting the public comment period to 45 days. While 75 days is the normal duration for NRC technical rules, the NRC believes that 45 days provides sufficient time for stakeholders to comment.

DATES: Submit comments by June 6, 2013. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date. Because the NRC has determined that the petition should be expedited due to the aforementioned pending arbitration cases, requests for extension of the comment period will not be granted.

ADDRESSES: You may access information and comment submissions related to this petition for rulemaking which the NRC possesses and is publicly available, by searching on *http://www.regulations.gov* under Docket ID NRC–2013–0024. You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0024. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Scott Sloan, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1619, email: *Scott.Sloan@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2013–0024 when contacting the NRC about the availability of information for this petition for rulemaking. You may access information related to this petition for rulemaking, which the NRC possesses and is publicly available, by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0024.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2013–0024 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in you comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly

disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

The Petition

Ellen C. Ginsburg, vice president, general counsel, and secretary, NEI, submitted a PRM dated January 25, 2013 (ADAMS Accession No. ML13035A186), requesting that the NRC amend its personnel access authorization regulations to ensure that denials cannot be overturned by a third party. The NRC has determined that the petition meets the threshold sufficiency requirements for a petition for rulemaking under § 2.802 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Petition for rulemaking,'' and the petition has been docketed as PRM–73–16. The NRC is requesting public comment on the petition for rulemaking.

The Petitioner

The petition states that NEI ''is the organization responsible for establishing unified industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues.'' The petition further states that NEI ''endeavors to bring matters to the NRC's attention that might frustrate the agency's statutory and regulatory objectives.'' The NEI believes that the issue raised in this petition is a generic matter and ''has the potential to affect the ability of NRC reactor licensees to control access to the protected and vital areas of their sites.''

Discussion of the Petition

The NRC's regulations at 10 CFR part 73, ''Physical protection of plants and materials,'' require a nuclear power plant to have access authorization programs in place to evaluate an employee's suitability for unescorted access to the plant. Specifically, 10 CFR 73.56(c) contains the requirement that all licensees have access authorization programs in place that provide a high degree of assurance that all employees granted unescorted access to nuclear power plants ''are trustworthy and reliable, such that they do not constitute an unreasonable risk to public health and safety or the common defense and security, including the potential to commit radiological sabotage.'' Regulations at 10 CFR 73.56(d) require licensees to perform background investigations of those employees seeking unescorted access, and regulations at 10 CFR 73.56(l) requires licensees to implement a notification and review process for those employees who are denied unescorted access. For the employee whose denial may provide an adverse impact on employment, the review ''must provide for an impartial and independent internal management review.''

The petitioner states that the United States Court of Appeals for the 7th Circuit decided, in *Exelon Generation Company, LLC* v. *Local 15, International Brotherhood of Electrical Workers,* 676 F.3d 566 (7th Cir. Ill. 2012), that the NRC's access authorization regulations do not prohibit the use of third-party arbitrators in cases where employees have been denied access. The petitioner states that one effect of the court's decision is that a person who has been determined not to be trustworthy and reliable by a licensee and denied unescorted access to a nuclear power plant could have that determination overturned by a third party. Therefore, according to the petitioner, the 7th Circuit court's decision ''undermines the NRC's ability to demonstrate that adequate protection is assured if licensees are impeded in their ability to comply with NRC regulations to maintain 'high assurance'.''

Furthermore, the petitioner believes that the 7th Circuit court's conclusion that NRC regulations do not explicitly prohibit third-party arbitration of denials of unescorted access could have been prevented had the regulations contained more ''clarity regarding the proper scope of the review process and the ultimate responsibility of the licensee for plant safety and security.'' The petitioner states that in order to provide the necessary clarity, the NRC regulations should be modified to ''expressly prohibit the restoration or grant of unescorted access by third parties (including arbitrators), to remove all doubt that the licensee is solely responsible for making final unescorted access decisions, and to prescribe a clearly-articulated scope of review for third-party reviewers.'' The petitioner provided proposed modifications to the regulations at 10 CFR 73.56(a)(4), 10 CFR 73.56(a)(5), and 10 CFR 73.56(l), that the petitioner believes would clarify the process and limit the scope on third-party reviews of access denials, and strengthen the authority of licensees to approve or deny unescorted access to nuclear power plants.

Dated at Rockville, Maryland, this 16th day of April 2013.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2013–09375 Filed 4–19–13; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0153; Directorate Identifier 2010–NM–022–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company

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

ACTION: Proposed rule; withdrawal.

SUMMARY: The FAA withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD) for certain The Boeing Company Model 777–200 and –300 series airplanes. The proposed AD would have required removing the electrical system control panel, changing the wiring, installing a new electrical power control panel, and installing new operational software for the electrical load management system and configuration database. Since the proposed AD was issued, we have received new data that indicates the unsafe condition would not be adequately addressed by the proposed action. Subsequently, we are considering issuing new rulemaking that positively addresses the unsafe condition identified in the NPRM and eliminates the need for the actions proposed in the NPRM. Accordingly, the proposed AD is withdrawn.

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

FOR FURTHER INFORMATION CONTACT: Ray Mei, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office,

1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6467; fax: 425–917–6590; email: *raymont.mei@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with a notice of proposed rulemaking (NPRM) for a new AD for certain Model 777–200 and –300 series airplanes. That NPRM published in the **Federal Register** on March 8, 2011 (76 FR 12617). The NPRM would have required removing the electrical system control panel, changing the wiring, installing a new electrical power control panel, and installing new operational software for the electrical load management system and configuration database. The NPRM resulted from an in-flight entertainment (IFE) systems review. The proposed actions were intended to ensure that the flightcrew is able to turn off electrical power to the IFE system and other non-essential electrical systems through a switch in the flight compartment in the event of smoke or flames. In the event of smoke or flames in the airplane flight deck or passenger cabin, the flightcrew's inability to turn off electrical power to the IFE system and other non-essential electrical systems could result in the inability to control smoke or flames in the airplane flight deck or passenger cabin during a non-normal or emergency situation.

Actions Since NPRM (76 FR 12617, March 8, 2011) Was Issued

Since we issued the NPRM (76 FR 12617, March 8, 2011), we have received new data that indicates the unsafe condition would not be adequately addressed by the proposed action. Subsequently, we are considering issuing new rulemaking that positively addresses the unsafe condition identified in the NPRM and eliminates the need for the actions proposed in the NPRM.

FAA's Conclusions

Upon further consideration, we have determined that the unsafe condition still exists, however, we intend to address it with new AD rulemaking. Accordingly, the NPRM (76 FR 12617, March 8, 2011) is withdrawn.

Withdrawal of the NPRM (76 FR 12617, March 8, 2011) does not preclude the FAA from issuing another related action or commit the FAA to any course of action in the future.

Regulatory Impact

Since this action only withdraws an NPRM (76 FR 12617, March 8, 2011), it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

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

The Withdrawal

Accordingly, we withdraw the NPRM, Docket No. FAA–2011–0153, Directorate Identifier 2010–NM–022–AD, which published in the **Federal Register** on March 8, 2011 (76 FR 12617).

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–09418 Filed 4–19–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0353; Directorate Identifier 2008–SW–029–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Eurocopter France (Eurocopter) Model AS332C, AS332L, AS332L1, AS332L2, and EC225LP helicopters to require inspecting for the presence of blind holes in the tail gearbox (TGB) attachment fittings, and, if they are missing, installing an additional washer under the head of the attachment bolt until the attachment fitting is replaced with an airworthy attachment fitting. This proposed AD was prompted by the discovery of interference between the TGB aft attachment bolt and the structure fitting, caused by a manufacturing anomaly that omitted the blind hole required for proper fit of the attachment bolt. This condition, if not detected and corrected, could result in insufficient tightening of the TGB casing, damage to the TGB attachment, cracking under the attachment bolt, and loss of the TGB, resulting in loss of control of the helicopter.

DATES: We must receive comments on this proposed AD by June 21, 2013.

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

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

Examining the AD Docket

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

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this

document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

The Direction Générale de L'Aviation Civile France (DGAC), the aviation authority for France, has issued DGAC AD No. F–2007–027, dated January 2, 2008 (F–2007–027), to correct an unsafe condition for certain Eurocopter AS332 series and EC225 LP helicopters. The DGAC advises that during a scheduled maintenance check, a helicopter was discovered to have interference between the threaded section of the aft attachment bolt and the structure fitting. The interference is because of a manufacturing anomaly in the fittings that omitted the blind hole for bolt clearance in the structure fitting. Interference from this missing blind hole does not permit correct axial tightening of the TGB casing, even if the correct torque load is applied to the attachment bolt. Insufficient tightening of the bolt can damage the TGB attachment and initiate a crack under the head of the attachment bolt. This condition, if not corrected, could result in loss of the TGB and subsequent loss of control of the helicopter.

FAA's Determination

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, DGAC, which is the production oversight authority for France, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Related Service Information

Eurocopter has issued one Emergency Alert Service Bulletin (EASB), Revision 1, dated January 4, 2008, with four different numbers. EASB No. 53.01.58 is for the Model AS332 series helicopters; EASB No. 53.00.58 is for the Model AS532 series helicopters, which are not FAA type certificated; EASB No. 53A012 is for the Model EC225LP helicopter; and EASB No. 53A011 is for the Model EC 725AP helicopter, which is not FAA type certificated. The EASB specifies inspecting the forward and aft attachment fittings for proper depth of the bolt holes. If the bolt holes are less than the minimum depth, the EASB specifies checking the condition of the bolt. If there are no signs of chafing or contact, the EASB calls for adding an additional washer to the bolt and reinstalling the bolt in the TGB attachment fitting. If there are signs of chafing or contact, the EASB requires replacing the bolt with an airworthy bolt and two washers. The DGAC classified this EASB as mandatory and issued F–2007–027 to ensure the continued airworthiness of these helicopters.

Proposed AD Requirements

This proposed AD would require, within 50 hours time-in-service, inspecting the TGB aft and forward attachment fittings for the presence of a blind hole and measuring the depth. If the measurement is equal to or greater than 81 mm, no action would be necessary. If the measurement is less than 81 mm, the proposed AD would require inspecting the attachment bolts for chafing or contact marks. If there is no chafing or marks, the proposed AD would require reinstalling each bolt with an additional washer. If there is chafing or contact marks, the proposed AD would require replacing each bolt with an airworthy bolt and an additional washer.

Costs of Compliance

We estimate that this proposed AD would affect six helicopters of U.S. registry. Based on an average estimated labor cost of $85 per work-hour, we estimate the following costs:

- Inspecting the TGB for the presence of a blind hole would require 0.50 work-hour for a labor cost of about $43. No parts would be needed, so the cost would total $43 per helicopter, or $258 for the fleet.
- Replacing bolts and adding a second washer if needed would require 0.50 work-hour for a labor cost of about $43. Parts would cost about $200 for three replacement bolts and the washers for a total cost of $243 per helicopter.
- Replacing the TGB attachment fitting with an airworthy fitting would require 40 work-hours for a labor cost of $3,400. Parts would cost about $1,921 for a total cost of $5,321 per helicopter.

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, 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 to the extent that it justifies making a regulatory distinction; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared an economic evaluation of the estimated costs to comply with this 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 Airworthiness Directive (AD):

Eurocopter France Helicopters: Docket No. FAA–2013–0353; Directorate Identifier 2008–SW–029–AD.

(a) Applicability

This AD applies to Eurocopter France (Eurocopter) models AS332C, AS332L, AS332L1, AS332L2, and EC225LP helicopters, serial numbers (S/N) up to and including 2680 and S/N 9000 through 9009, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as interference between the tail gearbox (TGB) attachment bolt and the structure fitting. This condition could result in insufficient tightening of the TGB casing, damage to the TGB attachment, cracking under the attachment bolt, loss of the TGB and consequently, loss of helicopter control.

(c) Compliance

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

(d) Required Actions

Within 50 hours time-in-service (TIS):

(1) Inspect the TGB aft attachment fitting to measure the dimension for a blind hole as follows:

(i) Remove the TGB attachment bolt (c) but retain washer (d) as depicted in Detail A, Figure 1, of Eurocopter Emergency Alert Service Bulletin (EASB) No. 53.01.58 and EASB No. 53A012, both Revision 1, and both dated January 4, 2008.

(ii) Use a depth gauge to measure dimension ''x'' between the top face of the washer (d) and the bottom of aft fitting (a) as depicted in Detail A, Figure 1, of the EASB.

(2) If the measurement is equal to or greater than 81 mm, then the blind hole is present. Install the TGB attachment bolt (c) with its washer (d) as depicted in Detail A, Figure 1, of the EASB. Lock with lockwire.

(3) If the measurement is less than 81 mm, then the blind hole is missing. Inspect the end of the threaded section of bolt (c) for chafing or a contact mark, as depicted in Area 1, Figure 1, of the EASB.

(i) If there is no chafing and no contact marks, install bolt (c) with washer (d) and additional washer (2) as depicted in Detail B, Figure 1, of the EASB.

(ii) If there is chafing or a contact mark, replace the TGB attachment bolt (c) with an airworthy bolt and install with washer (d) and additional washer (2) as depicted in Detail B, Figure 1, of the EASB. Lock with lockwire.

(iii) Within the next 825 hours TIS, replace the TGB aft attachment fitting with an airworthy attachment fitting.

(4) Inspect the right and left attachment points of the TGB forward attachment to measure the dimension for a blind hole, as follows:

(i) Remove both TGB attachment bolts (c) but retain washers (d), as depicted in Detail A, Figure 2, of the EASB.

(ii) Use a depth gauge to measure dimension ''x'' between the top face of washer (d) and the bottom of forward fitting (b) at the right and left attachment points, as depicted in Detail A, Figure 2, of the EASB.

(5) If both measurements are equal to or greater than 81 mm, then the blind hole is present. Install TGB attachment bolt (c) with its washer (d), as depicted in Detail A, Figure 2, of the EASB. Lock with lockwire.

(6) If one or both measurements are less than 81 mm, then the blind hole is missing. Inspect the end of the threaded section of each bolt (c) for chafing or a contact mark, as depicted in Area 1, Figure 2 of the EASB.

(i) If there is no chafing and no contact marks, for each attachment point, install bolt (c) with washer (d) and additional washer (2), as depicted in Detail B, Figure 2, of the EASB.

(ii) If there is chafing or a contact mark, replace each the TGB attachment bolt (c) with an airworthy bolt and install bolt (1) with washer (d) and additional washer (2), as depicted in Detail B, Figure 2, of the EASB. Lock with lockwire.

(iii) Within the next 825 hours TIS, replace the TGB forward attachment fitting with an airworthy attachment fitting.

(e) Alternative Methods of Compliance (AMOC)

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

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

(f) Additional Information

The subject of this AD is addressed in the Direction Générale de L'Aviation Civile France AD No F–2007–027, dated January 2, 2008.

(g) Subject

Joint Aircraft Service Component (JASC) Code: 6520, Tail Rotor Gearbox.

Issued in Fort Worth, Texas, on April 11, 2013.

Lance T. Gant,

Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–09414 Filed 4–19–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0349; Directorate Identifier 2012–SW–058–AD]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Inc. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bell Helicopter Textron Canada Inc. (BHT) Model 206A, 206B, and 206L helicopters. This proposed AD would require replacing certain part-numbered engine auto-relight kit control boxes. This proposed AD is prompted by a design review that revealed the control box chipset did not meet the required temperature range requirements, which could cause the control box to malfunction, disabling the engine auto-relight system. This condition could result in increased pilot workload during a power loss emergency and subsequent loss of control of the aircraft.

DATES: We must receive comments on this proposed AD by June 21, 2013.

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the

Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed AD, contact Bell Helicopter Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4; telephone (450) 437–2862 or (800) 363–8023; fax (450) 433–0272; or at *http://www.bellcustomer.com/files/.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

Transport Canada (TC), which is the aviation authority for Canada, has issued TC AD No. CF–2012–19, dated June 12, 2012 (CF–2012–19), to correct an unsafe condition for certain serial numbered BHT Model 206A, 206B, and 206L helicopters with an engine auto-relight kit control box assembly (control box assembly) part number 206–375–017–101 or 206–375–017–103 installed. TC advises that these control box assemblies have a manufacturing defect which could disable the auto-relight system in the event of an engine flameout, subsequently requiring the pilot to re-start the engine manually. This condition could result in increased pilot workload during a power loss emergency in-flight and subsequent loss of control of the helicopter. CF–2012–19 specifies replacing the affected control boxes within 4 months to correct the unsafe condition.

FAA's Determination

These helicopters have been approved by the aviation authority of Canada and are approved for operation in the United States. Pursuant to our bilateral agreement with Canada, TC, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

Related Service Information

BHT has issued Alert Service Bulletin (ASB) No. 206–11–127 for Model 206A and 206B helicopters and ASB No. 206L–11–167 for Model 206L helicopters, both dated May 2, 2011. Both ASBs specify replacing the affected control box assembly with an upgraded control box assembly.

Proposed AD Requirements

This proposed AD would require replacing the control box assembly within 4 months.

Costs of Compliance

We estimate that this proposed AD would affect 1,357 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. If installed, replacing the control box assembly would require about 2 work-hours at an average labor rate of $85 per hour and required parts would cost about $18,974, for a cost per helicopter of $19,144.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, 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 to the extent that it justifies making a regulatory distinction; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared an economic evaluation of the estimated costs to comply with this 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 airworthiness directive (AD):

Bell Helicopter Textron Canada Inc (BHT): Docket No. FAA–2013–0349; Directorate Identifier 2012–SW–058–AD.

(a) Applicability

This AD applies to the following helicopters, certificated in any category:

(1) BHT Model 206A and 206B helicopters, all serial numbers (S/N) except S/Ns 1, 2, and 3, with an engine auto-relight kit control box assembly (control box assembly) part number (P/N) 206–375–017–101 installed; and

(2) BHT Model 206L helicopters, S/N 45001 through 45153 and 46601 through 46617, with a control box assembly P/N 206–375–017–103 installed.

(b) Unsafe Condition

This AD defines the unsafe condition as an inoperative control box assembly. This condition could result in a disabled auto-relight system, failure of the engine to relight after a flame-out, increased pilot workload during a power loss emergency, and subsequent loss of control of the helicopter.

(c) Reserved

(d) Compliance

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

(e) Required Actions

Within 4 months, replace the control box assembly:

(1) For Model 206A and 206B helicopters, replace control box assembly P/N 206–375–017–101 with a control box assembly P/N 206–375–017–105.

(2) For Model 206L helicopters, replace control box assembly P/N 206–375–017–103 with a control box assembly P/N 206–375–017–107.

(f) Alternative Methods of Compliance (AMOCs)

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

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

(g) Additional Information

(1) BHT Alert Service Bulletin (ASB) No. 206–11–127 for Model 206A and 206B helicopters and ASB No. 206L–11–167 for Model 206L helicopters, both dated May 2, 2011, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, contact Bell Helicopter Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4; telephone (450) 437–2862 or (800) 363–8023; fax (450) 433–0272; or at *http://www.bellcustomer.com/files/.* You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(2) The subject of this AD is addressed in Transport Canada AD CF–2012–19, dated June 12, 2012.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 7410: Ignition Power Supply.

Issued in Fort Worth, Texas, on April 11, 2013.

Lance T. Gant,

Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–09415 Filed 4–19–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0034; Directorate Identifier 2010–NM–021–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company

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

ACTION: Proposed rule; withdrawal.

SUMMARY: The FAA withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD) for certain The Boeing Company Model 777–200 series airplanes. The proposed AD would have required installing a new circuit breaker, relays, and wiring to allow the flightcrew to turn off electrical power to the in-flight entertainment (IFE) systems and other non-essential electrical systems through a switch in the flight compartment, and doing other specified actions. This proposed AD would also have required installing a new cabin system control panel (CSCP); installing a new cabin management system (CMS) configuration database; and installing new operational program software (OPS) for the CSCP, zone management unit (ZMU), passenger address controller, cabin interphone controller, cabin area control panel (CACP), speaker drive module, overhead electronics units, and seat electronics unit. Since the proposed AD was issued, we have received new data that indicates the unsafe condition would not be adequately addressed by the proposed action. Subsequently, we are considering issuing new rulemaking that positively addresses the unsafe condition identified in the NPRM and eliminates the need for the actions proposed in the NPRM. Accordingly, the proposed AD is withdrawn.

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

FOR FURTHER INFORMATION CONTACT: Ray Mei, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6467; fax: 425–917–6590; email: *raymont.mei@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with a notice of proposed rulemaking (NPRM) for a new AD for certain Model 777–200 series airplanes. That NPRM published in the **Federal Register** on February 1, 2011 (76 FR 5505). The NPRM would have required installing a new circuit breaker, relays, and wiring to allow the flightcrew to turn off electrical power to the IFE systems and other non-essential electrical systems through a switch in the flight compartment, and doing other specified actions. The actions included removing the CSCP core partition software, the CACP OPS, the ZMU OPS, and the cabin system management unit (CSMU) OPS; installing OPS for the CSCP, CACP, ZMU, and CSMU; and installing the new configuration database (CDB). That NPRM would also have required installing a new CSCP; installing a new CMS CDB, installing passenger address controller, cabin

interphone controller, speaker drive module, overhead electronics units, and seat electronics unit. The NPRM resulted from an IFE systems review. The proposed actions were intended to ensure that the flightcrew is able to turn off electrical power to the IFE system and other non-essential electrical systems through a switch in the flight compartment in the event of smoke or flames. The flightcrew's inability to turn off electrical power to the IFE system and other non-essential electrical systems in the event of smoke or flames could result in the inability to control smoke or flames in the airplane flight deck or passenger cabin during a non-normal or emergency situation.

Actions Since NPRM (76 FR 5505, February 1, 2011) Was Issued

Since we issued the NPRM (76 FR 5505, February 1, 2011), we have received new data that indicates the unsafe condition would not be adequately addressed by the proposed action. Subsequently, we are considering issuing new rulemaking that positively addresses the unsafe condition identified in the NPRM and eliminates the need for the actions proposed in the NPRM.

FAA's Conclusions

Upon further consideration, we have determined that the unsafe condition still exists, however, we intend to address it with new AD rulemaking. Accordingly, the NPRM (76 FR 5505, February 1, 2011) is withdrawn.

Withdrawal of the NPRM (76 FR 5505, February 1, 2011) does not preclude the FAA from issuing another related action or commit the FAA to any course of action in the future.

Regulatory Impact

Since this action only withdraws an NPRM (76 FR 5505, February 1, 2011), it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

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

The Withdrawal

Accordingly, we withdraw the NPRM, Docket No. FAA–2011–0034, Directorate Identifier 2010–NM–021–AD, which published in the **Federal Register** on February 1, 2011 (76 FR 5505).

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–09422 Filed 4–19–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0033; Directorate Identifier 2010–NM–019–AD]

RIN 2120–AA64

Airworthiness Directives; the Boeing Company

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

ACTION: Proposed rule; withdrawal.

SUMMARY: The FAA withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD) for certain The Boeing Company Model 777–200 series airplanes. The proposed AD would have required installing a new circuit breaker, relays, and wiring to allow the flightcrew to turn off electrical power to the in-flight entertainment (IFE) systems and other non-essential electrical systems through a switch in the flight compartment, and doing other specified actions. That NPRM would also have required changing the wiring at the cabin management system in the purser station. Since the proposed AD was issued, we have received new data that indicates the unsafe condition would not be adequately addressed by the proposed action. Subsequently, we are considering issuing new rulemaking that positively addresses the unsafe condition identified in the NPRM and eliminates the need for the actions proposed in the NPRM. Accordingly, the proposed AD is withdrawn.

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

FOR FURTHER INFORMATION CONTACT: Ray Mei, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6467; fax: 425–917–6590; email: *raymont.mei@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with a notice of proposed rulemaking (NPRM) for a new AD for certain Model 777–200 series airplanes. That NPRM published in the **Federal Register** on February 1, 2011 (76 FR 5503). The NPRM would have required installing a new circuit breaker, relays, and wiring to allow the flightcrew to turn off electrical power to the IFE systems and other non-essential electrical systems through a switch in the flight compartment, and doing other specified actions. The actions included replacing the cabin area control panels; changing the wiring; modifying the purser station or the A–4 galley, as applicable; installing new cabin system management unit, cabin area control panel, overhead electronics unit, and zone management units operational software, as applicable; and making a change to the cabin services system (CSS) configuration database and installing the new database in the CSS components. That NPRM would also have required changing the wiring at the cabin management system in the purser station. The NPRM resulted from an IFE systems review. The proposed actions were intended to ensure that the flightcrew is able to turn off electrical power to the IFE system and other non-essential electrical systems through a switch in the flight compartment in the event of smoke or flames. The flightcrew's inability to turn off electrical power to the IFE system and other non-essential electrical systems in the event of smoke or flames could result in the inability to control smoke or flames in the airplane flight deck or passenger cabin during a non-normal or emergency situation.

Actions Since NPRM (76 FR 5503, February 1, 2011) Was Issued

Since we issued the NPRM (76 FR 5503, February 1, 2011), we have received new data that indicates the unsafe condition would not be adequately addressed by the proposed action. Subsequently, we are considering issuing new rulemaking that positively addresses the unsafe condition identified in the NPRM and

eliminates the need for the actions proposed in the NPRM.

FAA's Conclusions

Upon further consideration, we have determined that the unsafe condition still exists, however, we intend to address it with new AD rulemaking. Accordingly, the NPRM (76 FR 5503, February 1, 2011) is withdrawn.

Withdrawal of the NPRM (76 FR 5503, February 1, 2011) does not preclude the FAA from issuing another related action or commit the FAA to any course of action in the future.

Regulatory Impact

Since this action only withdraws an NPRM (76 FR 5503, February 1, 2011), it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

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

The Withdrawal

Accordingly, we withdraw the NPRM, Docket No. FAA–2011–0033, Directorate Identifier 2010–NM–019–AD, which published in the **Federal Register** on February 1, 2011 (76 FR 5503).

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–09429 Filed 4–19–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0351; Directorate Identifier 2009–SW–049–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Eurocopter France (Eurocopter) Model AS350B, BA, B1, B2, B3, and D, and Model AS355E, F, F1, F2, and N helicopters with certain tail rotor (T/R) blades. This proposed AD would require installing additional rivets to secure each T/R blade trailing edge tab (tab), and inspecting for evidence of debonding of the tab after the rivets are installed. This proposed AD is prompted by reports of T/R blade tab debonding. The actions specified by this proposed AD are intended to prevent loss of a T/R blade tab, which could result in excessive vibration and loss of control of the helicopter.

DATES: We must receive comments on this proposed AD by June 21, 2013.

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

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

Examining the AD Docket

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

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

The Direction Generale de l'Aviation Civile (DGAC), which is the aviation authority for France, has issued DGAC AD No. F–2004–178, dated November 10, 2004, for the Eurocopter AS 350B, BA, BB, B1, B2, B3, and D helicopters, fitted with certain T/R blades. DGAC has also issued AD No. F–2004–176, dated November 10, 2004, for the Eurocopter Model AS 355E, F, F1, F2, and N helicopters with certain T/R blades. DGAC advises of reports of T/R blade tab debonding, and that the loss of the tab leads to a significant increase in the aircraft's vibration level. As a result, the ADs mandate compliance with the manufacturer's service information to install additional rivets on the tabs.

FAA's Determination

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, the European Aviation Safety Agency, which is the Technical Agent for the Member States of the European Union, has notified us of the unsafe condition described in the DGAC AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to

exist or develop on other products of the same type design.

Related Service Information

We reviewed Eurocopter Alert Service Bulletin (ASB) No. 64.00.05, Revision 2, dated February 15, 2007, for Model AS350B, BA, BB, B1, B2, B3, and D helicopters, and ASB No. 64.00.04, Revision 2, dated February 15, 2007, for Model AS355E, F, F1, F2, and N helicopters.

These ASBs specify, within 100 flying hours without exceeding three months, installing additional rivets on T/R blade tabs and inspecting each tab for debonding after the rivets have been installed. DGAC classified these ASBs as mandatory and issued AD No. F–2004–176 and AD No. F2004–178 to ensure the continued airworthiness of these helicopters.

Proposed AD Requirements

This proposed AD would require installing additional rivets on each T/R blade tab and inspecting the tab for debonding. If there is debonding of the tab, this proposed AD would require replacing the tab with an airworthy tab before further flight.

Differences Between This Proposed AD and the DGAC AD

This proposed AD does not include the Model AS350 BB because it does not have an FAA-issued type certificate. This proposed AD requires compliance within 100 hours TIS. The DGAC ADs require compliance within 100 flying hours ''without exceeding 3 months.''

Costs of Compliance

We estimate that this proposed AD affects 654 helicopters of U.S. registry and that labor costs average $85 a work-hour. Based on these estimates, we expect the following costs:

- Installing rivets and inspecting for tab debonding would take one hour for a labor cost of $85. Parts would cost $100 for a total cost of $185 per helicopter. The cost for the U.S. fleet would total $120,990.
- Replacing the tab with an airworthy tab, if needed, would take four hours for a total labor cost of $340. Parts would cost $100, for a total cost of $440 per helicopter.

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, 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 to the extent that it justifies making a regulatory distinction; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared an economic evaluation of the estimated costs to comply with this 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 airworthiness directive (AD):

Europcopter France (Eurocopter): Docket No. FAA–2013–0351; Directorate Identifier 2009–SW–049–AD.

(a) Applicability

This AD applies to Eurocopter Model AS350B, BA, B1, B2, B3, D, and AS355E, F, F1, F2, and N helicopters with a tail rotor (T/R) blade, part number (P/N) 355A12–0040–00, 355A–12–0040–01, 355A12–0040–02, 355A12–0040–03, 355A–12–0040–04, 355A12–0040–05, 355A–12–0040–07, 355A–12.0040–08, or 355A12–0040–14, all serial numbers (S/N); or P/N 355A12–0050–04, 355A12–0050–10, or 355A12–0050–12, with a S/N 8400 through 9224, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as T/R blade trailing edge tab (tab) debonding. This condition could result in excessive vibration of the helicopter and loss of control of the helicopter.

(c) Comments Due Date

Comments are due June 21, 2013.

(d) Compliance

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

(e) Required Actions

Within 100 hours time-in-service, install additional rivets on the trailing edge tab of each T/R blade, according to the following procedures, referencing Figure 1 of Eurocopter Alert Service Bulletin (ASB) No. 64.00.05, Revision 2, dated February 15, 2007, or ASB No. 64.00.04, Revision 2, dated February 15, 2007, whichever is applicable to your model helicopter:

(1) Lightly sand the area to be drilled, using No. 80 then No. 220 sandpaper.

(2) Locate and drill eight 2.5 mm-diameter holes (T): 4 holes (T) 12 mm from the existing rivets (E) and on the centerline of the existing rivets (E), then 4 holes (T) 24 mm from the existing rivets (E) and on the centerline of the existing rivets (E).

(3) Deburr and clean the area around the drilled holes.

(4) Install 8 rivets (1) on tab (L). Any installation direction of the rivets is permissible (pressure face or suction face of the T/R blade).

(5) Inspect the tab for debonding.

(i) If there is no debonding, paint the area.

(ii) If there is debonding, replace the tab.

(f) Alternative Methods of Compliance (AMOCs)

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

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of

the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency AD No. F–2004–176 and AD No. F–2004–178, both dated November 10, 2004.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 6410, Tail rotor blades.

Issued in Fort Worth, Texas, on April 11, 2013.

Lance T. Gant,

Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–09417 Filed 4–19–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0334; Directorate Identifier 2013–NM–027–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all The Boeing Company Model 757 airplanes. This proposed AD was prompted by a report of a broken forward support fitting at the inboard track of the inboard flap. This proposed AD would require repetitive inspections of the forward support fitting assemblies of the inboard track of the left and right inboard flaps for cracking, and corrective actions if necessary. We are proposing this AD to detect and correct cracking of the forward support fitting assembly, which could result in loss of inboard flap control and subsequent loss of airplane control.

DATES: We must receive comments on this proposed AD by June 6, 2013.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Ave SW., Renton, WA 98057. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6440; fax: (425) 917–6590; email: *nancy.marsh@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0334; Directorate Identifier 2013–NM–027–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We received a report of a broken forward support fitting assembly at the inboard track of the inboard flap. During a post-flight taxi, pilots noticed a FLAP TE DISAGREE message on the engine indication and crew alerting system (EICAS). Maintenance personnel found that both components of the forward support fitting assembly had broken, causing the inboard track and transmission to drop 8 inches into the wheel well. The airplane had accumulated 22,328 total flight cycles. Metallurgical analysis found that cracks had initiated at a compound radius in each component flange common to the main landing gear (MLG) beam. Each crack was propagated by fatigue and was followed by final ductile rupture. This condition, if not detected and corrected, could result in loss of inboard flap control and subsequent loss of airplane control.

Relevant Service Information

We reviewed Boeing Special Attention Service Bulletin 757–57–0071, dated September 12, 2012. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2013–0334.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously.

In addition, the phrase ''corrective actions'' might be used in this proposed AD. ''Corrective actions'' are actions that correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Costs of Compliance

We estimate that this proposed AD affects 690 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
High-frequency eddy current inspection.	11 work-hours × $85 per hour = $935, per inspection cycle	None	$935, per inspection cycle	$645,150, per inspection cycle.

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement	7 work-hours × $85 per hour = $595, per assembly	$10,000	$10,595, per assembly.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2013–0334; Directorate Identifier 2013–NM–027–AD.

(a) Comments Due Date

We must receive comments by June 6, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 757–200, –200PF, –200CB, and –300 series airplanes, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 5753, Trailing edge flaps.

(e) Unsafe Condition

This AD was prompted by a report of a broken forward support fitting at the inboard track of the inboard flap. We are issuing this AD to detect and correct cracking of the forward support fitting assembly, which could result in loss of inboard flap control and subsequent loss of airplane control.

(f) Compliance

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

(g) Inspection and Corrective Action

Except as provided by paragraph (h) of this AD, at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 757–57–0071, dated September 12, 2012: Do a high frequency eddy current (HFEC) inspection for cracking in the forward support fitting assemblies of the inboard track of the left and right inboard flaps, and do all applicable corrective actions, in accordance with paragraph 3.B.2. of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757–57–0071, dated September 12, 2012. Do all applicable corrective actions before further flight. Thereafter, repeat the inspections at intervals not to exceed 6,000 flight cycles, except as required by paragraphs (g)(1) and (g)(2) of this AD.

(1) For Group 1 airplanes as identified in Boeing Special Attention Service Bulletin 757–57–0071, dated September 12, 2012, on which any forward support fitting assembly is replaced: Do the next inspection before 15,000 flight cycles has accumulated on that assembly.

(2) For Group 2 airplanes as identified in Boeing Special Attention Service Bulletin 757–57–0071, dated September 12, 2012, on which any forward support fitting assembly is replaced: Do the next inspection before 18,000 flight cycles has accumulated on that assembly.

(h) Exception to the Service Information

(1) Where Boeing Special Attention Service Bulletin 757–57–0071, dated September 12, 2012, specifies compliance times ''after the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance times ''after the effective date of this AD.''

(2) Paragraphs 3.B.1. and 3.B.3. of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757–57–

0071, dated September 12, 2012, are not required by this AD.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(j) Related Information

(1) For more information about this AD, contact Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6440; fax: (425) 917–6590; email: *nancy.marsh@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Ave. NW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on April 12, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–09407 Filed 4–19–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0020; Directorate Identifier 2010–SW–107–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter Deutschland GmbH (ECD) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for ECD Model MBB–BK 117 C–2 helicopters. This proposed AD would require inspecting the rigging of the power-boosted control system and, if there is a nonparallel gap between the rigging wedges and the inner sleeves, performing a rigging procedure. This proposed AD is prompted by the discovery, during rigging of the main rotor controls, of movement of the longitudinal main rotor actuator piston after shut-down of the external pump drive. Such movement could cause incorrect rigging results. The proposed actions are intended to prevent incorrect rigging results, which could impair freedom of movement of the upper controls and subsequent reduced control of the helicopter.

DATES: We must receive comments on this proposed AD by June 21, 2013.

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

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

Examining the AD Docket

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

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

FOR FURTHER INFORMATION CONTACT: Jim Grigg, Manager, FAA, Rotorcraft Directorate, Safety Management Group, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (817) 222–5110; email *jim.grigg@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued AD No. 2010–0248, dated November 26, 2010 (AD 2010–0248), to correct an unsafe condition for the ECD Model MBB–BK 117 C–2 helicopters. EASA advises that during rigging of the main rotor controls, it was

discovered that the piston of the longitudinal main rotor actuator had moved after shut-down of the external pump drive.

FAA's Determination

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

Related Service Information

ECD has issued Alert Service Bulletin ASB MBB BK117 C–2–67A–012, Revision 0, dated September 20, 2010 (ASB). The ASB specifies a one-time verification of the correct adjustment of the rigging of the main rotor controls and provides the corresponding test procedure. The ASB further provides an improved rigging procedure as a temporary revision to the ECD BK117C2 Aircraft Maintenance Manual. EASA classified this ASB as mandatory and issued AD 2010–0248 to ensure the continued airworthiness of these helicopters.

Proposed AD Requirements

This proposed AD would require inspecting the rigging of the power-boosted control system and performing a rigging procedure if there is a nonparallel gap between the rigging wedges and the inner sleeves.

Differences Between This Proposed AD and the EASA AD

We do not require inserting temporary changes into the performance section of the Rotorcraft Flight Manual.

Costs of Compliance

We estimate that this proposed AD would affect 108 helicopters of U.S. registry. We estimate that operators may incur the following costs in order to comply with this proposed AD:

- $680 for 8 work hours per helicopter to inspect the main rotor control rigging at an average labor rate of $85 per work hour;
- No additional costs are associated with rigging adjustment, if necessary; and
- $73,440 for the total cost of the proposed AD on U.S. operators.

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, 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 to the extent that it justifies making a regulatory distinction; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared an economic evaluation of the estimated costs to comply with this 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 airworthiness directive (AD):

EUROCOPTER DEUTSCHLAND GmbH (ECD): Docket No. FAA–2013–0020; Directorate Identifier 2010–SW–107–AD.

(a) Applicability

This AD applies to Model MBB–BK 117 C–2 helicopters, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as movement of the longitudinal main rotor actuator piston after shut-down of the external pump drive, during rigging of the main rotor controls, causing an incorrect rigging result. This condition could impair freedom of movement of the upper controls and subsequently reduce control of the helicopter.

(c) Compliance

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

(d) Required Actions

Within 300 hours time-in-service:

(1) Inspect the rigging of the power-boosted control system, referencing Figure 1 of Eurocopter Alert Service Bulletin ASB MBB BK117 C–2–67A–012, Revision 0, dated September 20, 2010 (ASB). Ensure the piston of the longitudinal actuator (right-hand side) is held in the fully extended position and the piston of the lateral actuator (left-hand side) is held in the fully retracted position against the mechanical stop. Also, ensure the gauge block is clamped between the sliding sleeve and the support tube.

(2) Insert the rigging wedges with the 25.4 degree (item 8) and 19.5 degree (item 7) markings in the ''A'' side of the guide grooves of the rigging device (item 3).

(3) If the gap between the rigging wedges (items 7 and 8) and the inner sleeves (item 9) is closed, the rigging is correct.

(4) If there is a nonparallel gap between the rigging wedges (items 7 and 8) and the inner sleeves (item 9), the rigging is not correct. Perform a rigging procedure.

(e) Alternative Methods of Compliance (AMOC)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Jim Grigg, Manager, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, TX 76137, telephone (817) 222–5110, email *Jim.Grigg@faa.gov.*

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

(f) Additional Information

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

(2) The subject of this AD is addressed in European Aviation Safety Agency AD No. 2010–0248, dated November 26, 2010.

(g) Subject

Joint Aircraft Service Component (JASC) Code: 6710 Main Rotor Control.

Issued in Fort Worth, Texas, on April 11, 2013.

Lance T. Gant,

Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–09410 Filed 4–19–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0352; Directorate Identifier 2012–SW–063–AD]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Sikorsky Aircraft Corporation (Sikorsky) Model S–92A helicopters to require modifying the No. 1 engine forward firewall center fire extinguisher discharge tube (No. 1 engine tube). This proposed AD is prompted by the discovery that the No. 1 engine tube installed on the helicopters is too long to ensure that a fire could be effectively extinguished on a helicopter. The proposed actions are intended to ensure the No. 1 engine tube would allow for complete coverage of an extinguishing agent in the No. 1 engine compartment area, ensure that a fire would be extinguished and prevent the loss of helicopter control.

DATES: We must receive comments on this proposed AD by June 21, 2013.

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

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

Examining the AD Docket

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

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

FOR FURTHER INFORMATION CONTACT: Michael Schwetz, Aviation Safety Engineer, Boston Aircraft Certification Office, Engine & Propeller Directorate, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (781) 238–7761; email *michael.schwetz@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

We propose to adopt a new airworthiness directive (AD) for Sikorsky Aircraft Corporation (Sikorsky) Model S–92A helicopters with serial numbers (S/N) 920006 through 920169. This proposed AD is prompted by a recent event where an extinguishing test at a Sikorsky plant showed that an incorrect No. 1 engine tube length had been put into production. Because of the incorrect tube length, if a fire erupts in the engine compartment, the fire-extinguishing system may not discharge the agent completely throughout the compartment to extinguish the blaze. This proposed AD would require removing the No. 1 engine tube, cutting off two inches from the discharge end of the tube, and inspecting the outboard discharge tube and positioning both tubes to ensure that they would provide complete coverage of the extinguishing agent in the No. 1 engine compartment area to ensure that a fire can be extinguished.

FAA's Determination

We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Related Service Information

Sikorsky has issued Alert Service Bulletin 92–26–004 (ASB), dated June 4, 2012, to modify the No. 1 engine tube within 120 days. The ASB specifies procedures to cut two inches off the tube's discharge end, as well as how to inspect and reposition, if necessary, the outboard discharge tube.

Proposed AD Requirements

This proposed AD would require removing the No. 1 engine tube, removing two inches from the discharge end of the tube, and then require inspecting the outboard discharge tube

for correct positioning. If the outboard discharge tube is not correctly positioned, this proposed AD would require correcting the positioning.

Costs of Compliance

We estimate that this proposed AD would affect 24 U.S. registered helicopters and that labor costs would average $85 per work-hour. Based on these estimates, we expect the following costs:

• Modifying the No. 1 engine tube would take two work-hours for an estimated labor cost of $170 per helicopter. No parts would be needed, so the cost for the U.S. fleet would total $4,080.

• Inspecting the outboard discharge tube and ensuring that it is in the required position would take about one work-hour for a total labor cost of $85 per helicopter. No parts would be needed for a total U.S. fleet cost of $2,040.

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, 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 to the extent that it justifies making a regulatory distinction; and

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

We prepared an economic evaluation of the estimated costs to comply with this 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 airworthiness directive (AD):

SIKORSKY AIRCRAFT CORPORATION: Docket No. FAA–2013–0352; Directorate Identifier 2012–SW–063–AD.

(a) Applicability

This AD applies to Sikorsky Aircraft Corporation (Sikorsky) Model S–92A helicopters, serial numbers 920006 through 920169, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as failure of the No. 1 engine forward firewall center fire extinguisher discharge tube to discharge an extinguishing agent for complete coverage of the No. 1 engine compartment area. This condition could result in a fire not being extinguished and subsequent loss of helicopter control.

(c) Compliance

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

(d) Required Actions

Within 120 days:

(1) Modify the No. 1 engine forward firewall center discharge tube in accordance with the Accomplishment Instructions, Paragraph B, of Sikorsky Alert Service Bulletin 92–26–004, dated June 4, 2012 (ASB).

(2) Inspect the outboard discharge tube and determine if it is correctly positioned as depicted in Figure 3 of the ASB. If it is not correctly positioned, correct the positioning in accordance with the Accomplishment Instructions, Paragraph D, of the ASB.

(e) Alternative Methods of Compliance (AMOC)

(1) The Manager, Boston Aircraft Certification Office, FAA, may approve AMOCs for this AD. Send your proposal to: Michael Schwetz, Aviation Safety Engineer, Boston Aircraft Certification Office, Engine & Propeller Directorate, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (781) 238–7761; email *michael.schwetz@faa.gov.*

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

(f) Additional Information

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

(g) Subject

Joint Aircraft Service Component (JASC) Code: 2620, Extinguishing System.

Issued in Fort Worth, Texas, on April 11, 2013.

Lance T. Gant,

Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–09406 Filed 4–19–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Office of the Secretary

2 CFR Part 1329

15 CFR Part 29

[Docket No. 0907271171–91172–01]

RIN 0605–AA28

Implementation of OMB Guidance on Drug-Free Workplace Requirements

AGENCY: U.S. Department of Commerce.

ACTION: Proposed rule.

SUMMARY: The U.S. Department of Commerce is proposing to remove its regulation implementing the Governmentwide common rule on drug-free workplace requirements for financial assistance, and issuing a new regulation to adopt the Office of

Management and Budget (OMB) guidance. This regulatory action implements the OMB's initiative to streamline and consolidate into one title of the CFR all Federal regulations on drug-free workplace requirements for financial assistance. These changes constitute an administrative simplification that would make no substantive change in U.S. Department of Commerce policy or procedures for drug-free workplace.

DATES: Submit comments by May 22, 2013 on any unintended changes this action makes in U.S. Department of Commerce policies and procedures for drug-free workplace. All comments on unintended changes will be considered and, if warranted, U.S. Department of Commerce will revise the rule.

ADDRESSES: You may submit comments, identified by RIN 0605–AA28, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Gary Johnson, Office of Acquisition Management, U.S. Department of Commerce, Room H–6412, 1401 Constitution Avenue NW., Washington, DC 20230.
- *Hand Delivery/Courier:* Same Address as Above.

Instructions: All submissions received must include the agency name and Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to Regulations.gov, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Gary Johnson, *Gjohnso3@doc.gov,* 202 482–1679.

SUPPLEMENTARY INFORMATION:

Background

The Drug-Free Workplace Act of 1988, Public Law 100–690, Title V, Subtitle D; 41 U.S.C. 701, et seq., was enacted as a part of omnibus drug legislation on November 18, 1988. Federal agencies issued an interim final common rule to implement the act as it applied to grants (54 FR 4946, January 31, 1989). The rule was a subpart of the Governmentwide common rule on nonprocurement suspension and debarment. The agencies issued a final common rule after consideration of public comments (55 FR 21681, May 25, 1990).

The agencies proposed an update to the drug-free workplace common rule in 2002 (67 FR 3266, January 23, 2002) and finalized it in 2003 (68 FR 66534, November 26, 2003). The updated common rule was redrafted in plain language and adopted as a separate part independent from the common rule on nonprocurement suspension and debarment. Based on an amendment to the drug-free workplace requirements in 41 U.S.C. 702 (Pub. L. 105–85, div. A, title VIII, Sec. 809, Nov. 18, 1997, 111 Stat. 1838), the update also allowed multiple enforcement options from which agencies could select, rather than requiring use of a certification in all cases.

When it established Title 2 of the CFR as the new central location for OMB guidance and agency implementing regulations concerning grants and agreements (69 FR 26276, May 11, 2004), OMB announced its intention to replace common rules with OMB guidance that agencies could adopt in brief regulations. OMB began that process by proposing (70 FR 51863, August 31, 2005) and finalizing (71 FR 66431, November 15, 2006) Governmentwide guidance on nonprocurement suspension and debarment in 2 CFR Part 180.

As the next step in that process, OMB proposed for comment (73 FR 55776, September 26, 2008) and finalized (74 FR 28149, June 15, 2009) Governmentwide guidance with policies and procedures to implement drug-free workplace requirements for financial assistance. The guidance requires each agency to replace the common rule on drug-free workplace requirements that the agency previously issued in its own CFR title with a brief regulation in 2 CFR adopting the Governmentwide policies and procedures. One advantage of this approach is that it reduces the total volume of drug-free workplace regulations. A second advantage is that it collocates OMB's guidance and all of the agencies' implementing regulations in 2 CFR.

The Current Regulatory Actions

As the OMB guidance requires, the Department of Commerce is taking two regulatory actions. First, we are proposing to remove the drug-free workplace common rule from 15 CFR part 29. Second, to replace the common rule, we propose to issue a brief regulation in 2 CFR part 1329 to adopt the Governmentwide policies and procedures in the OMB guidance.

Invitation to Comment

Taken together, these regulatory actions are solely an administrative simplification and are not intended to make any substantive change in policies or procedures. In soliciting comments on these actions, we therefore are not seeking to revisit substantive issues that were resolved during the development of the final common rule in 2003. We are inviting comments specifically on any unintended changes in substantive content that the new part in 2 CFR would make relative to the common rule at 15 CFR part 29.

Executive Order 12866

OMB has determined this rule to be not significant for purposes of E.O. 12866.

Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b))

Pursuant to section 605(b), the Chief Council for Regulations certified to the Chief Council for Advocacy at the Small Business Administration that the attached proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

The U.S. Department of Commerce is proposing to remove its regulation implementing the Governmentwide common rule on drug-free workplace requirements for financial assistance, currently located within Part 29 of Title 15 of the Code of Federal Regulations (CFR), and issuing a new regulation to adopt the Office of Management and Budget (OMB) guidance at 2 CFR part 182. This regulatory action implements the OMB's initiative to streamline and consolidate into one title of the CFR all federal regulations on drug-free workplace requirements for financial assistance. This regulatory change does not impact any small entities as these changes constitute an administrative simplification that would make no substantive change in U.S. Department of Commerce policy or procedures for drug-free workplace. For the reasons set forth above, this action will not have a significant impact on a substantial number of small entities.

Unfunded Mandates Act of 1995 (Sec. 202, Pub. L. 104–4)

This regulatory action does not contain a Federal mandate that will result in the expenditure by State, local, and tribal governments, in aggregate, or by the private sector of $100 million or more in any one year.

Paperwork Reduction Act of 1995 (44 U.S.C., Chapter 35)

This regulatory action will not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act.

Federalism (Executive Order 13132)

This proposed regulatory action does not have Federalism implications, as set forth in Executive Order 13132. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or

on the distribution of power and responsibilities among the various levels of government.

List of Subjects

2 CFR Part 1329

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

15 CFR Part 29

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

Issued this 3rd day of April, 2013 at Washington, DC.

Barry E. Berkowitz,

Director for Acquisition Management and Procurement Executive.

Accordingly, for the reasons set forth in the preamble, and under the authority of 5 U.S.C. 301 and 41 U.S.C. 701 et seq., the U.S. Department of Commerce proposes to add 2 CFR 1329 and remove 15 CFR 29 as follows:

Title 2—Grants and Agreements

■ 1. Add Part 1329 to Subtitle B, Chapter XIII, to read as follows:

PART 1329—REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

Sec.

1329.10 What does this part do?
1329.20 Does this Part apply to me?
1329.30 What policies and procedures must I follow?

Subpart A—Purpose and Coverage [Reserved]

Subpart B—Requirements for Recipients Other Than Individuals

1329.225 Whom in the Department of Commerce does a recipient other than an individual notify about a criminal drug conviction?

Subpart C—Requirements for Recipients Who Are Individuals

1329.300 Whom in the Department of Commerce does a recipient who is an individual notify about a criminal drug conviction?

Subpart D—Responsibilities of Agency Awarding Officials

1329.400 What method do I use as an agency awarding official to obtain a recipient's agreement to comply with the OMB guidance?

Subpart E—Violations of This Part and Consequences

1329.500 Who in the Department of Commerce determines that a recipient other than an individual violated the requirements of this part?
1329.505 Who in the Department of Commerce determines that a recipient who is an individual violated the requirements of this part?

Subpart F—Definitions [Reserved]

Authority: 5 U.S.C. 301; 41 U.S.C. 701–707.

§ 1329.10 What does this part do?

This part requires that the award and administration of Department of Commerce grants and cooperative agreements comply with Office of Management and Budget (OMB) guidance implementing the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701–707, as amended, hereafter referred to as ''the Act'') that applies to grants. It thereby—

(a) Gives regulatory effect to the OMB guidance (SubParts A through F of 2 CFR Part 182) for the Department of Commerce's grants and cooperative agreements; and

(b) Establishes Department of Commerce policies and procedures for compliance with the Act that are the same as those of other Federal agencies, in conformance with the requirement in 41 U.S.C. 705 for Governmentwide implementing regulations.

§ 1329.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB guidance in Subparts A through F of 2 CFR part 182 (see table at 2 CFR 182.115(b)) apply to you if you are a—

(a) Recipient of a Department of Commerce grant or cooperative agreement; or

(b) Department of Commerce awarding official.

§ 1329.30 What policies and procedures must I follow?

(a) *General.* You must follow the policies and procedures specified in applicable sections of the OMB guidance in Subparts A through F of 2 CFR Part 182, as implemented by this part.

(b) *Specific sections of OMB guidance that this part supplements.* In implementing the OMB guidance in 2 CFR part 182, this part supplements four sections of the guidance, as shown in the following table. For each of those sections, you must follow the policies and procedures in the OMB guidance, as supplemented by this part.

Section of OMB guidance	Section in this part where supplemented	What the supplementation clarifies
(1) 2 CFR 182.225(a)	§ 1329.225	Whom in the Department of Commerce a recipient other than an individual must notify if an employee is convicted for a violation of a criminal drug statute in the workplace.
(2) 2 CFR 182.300(b)	§ 1329.300	Whom in the Department of Commerce a recipient who is an individual must notify if he or she is convicted of a criminal drug offense resulting from a violation occurring during the conduct of any award activity.
(3) 2 CFR 182.500	§ 1329.500	Who in the Department of Commerce is authorized to determine that a recipient other than an individual is in violation of the requirements of 2 CFR Part 182, as implemented by this Part.
(4) 2 CFR 182.505	§ 1329.505	Who in the Department of Commerce is authorized to determine that a recipient who is an individual is in violation of the requirements of 2 CFR Part 182, as implemented by this Part.

(c) *Sections of the OMB guidance that this part does not supplement.* For any section of OMB guidance in Subparts A through F of 2 CFR Part 182 that is not listed in paragraph (b) of this section, Department of Commerce policies and procedures are the same as those in the OMB guidance.

Subpart A—Purpose and Coverage [Reserved]

Subpart B—Requirements for Recipients Other Than Individuals

§ 1329.225 Whom in the Department of Commerce does a recipient other than an individual notify about a criminal drug conviction?

A recipient other than an individual that is required under 2 CFR 182.225(a) to notify Federal agencies about an employee's conviction for a criminal drug offense must notify each Department of Commerce office from which it currently has an award.

Subpart C— Requirements for Recipients Who Are Individuals

§ 1329.300 Whom in the Department of Commerce does a recipient who is an individual notify about a criminal drug conviction?

A recipient who is an individual and is required under 2 CFR 182.300(b) to notify Federal agencies about a conviction for a criminal drug offense must notify each Department of Commerce office from which it currently has an award.

Subpart D—Responsibilities of Agency Awarding Officials

§ 1329.400 What method do I use as an agency awarding official to obtain a recipient's agreement to comply with the OMB guidance?

To obtain a recipient's agreement to comply with applicable requirements in the OMB guidance at 2 CFR part 182, you must include the following term or condition in the award:

Drug-free workplace. You as the recipient must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 CFR part 1329, which adopts the Governmentwide implementation (2 CFR part 182) of sec. 5152–5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701–707).

Subpart E—Violations of this Part and Consequences

§ 1329.500 Who in the Department of Commerce determines that a recipient other than an individual violated the requirements of this Part?

The Secretary of Commerce or designee.

§ 1329.505 Who in the Department of Commerce determines that a recipient who is an individual violated the requirements of this Part?

The Secretary of Commerce or designee.

Subpart F—Definitions [Reserved]

Title 15—Commerce and Foreign Trade

PART 29—[Removed and Reserved]

■ 2. Remove and reserve Part 29.

[FR Doc. 2013–09044 Filed 4–19–13; 8:45 am]

BILLING CODE 3510–03–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AO59

Copayment for Extended Care Services

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend how VA determines the ''spousal resource protection amount,'' which is the amount of liquid assets of a veteran and community (i.e., not institutionalized) spouse that is considered unavailable when calculating the veteran's maximum monthly copayment obligation for extended care services longer than 180 days. This proposed rule would define the ''spousal resource protection amount'' by reference to the Maximum Community Spouse Resource Standard, which is published each year by the Centers for Medicare and Medicaid Services (CMS) and is adjusted annually based on the Consumer Price Index. This change would have the immediate effect of increasing the spousal resource protection amount from $89,280 to $115,920, and would ensure that the spousal resource protection amount stays consistent with the comparable protection for the spouses of Medicaid recipients.

DATES: Comments must be received on or before June 21, 2013.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov*; by mail or hand-delivery to the Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AO59—Copayment for Extended Care Services.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Kristin J. Cunningham, Director Business Policy, Chief Business Office, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; (202) 461–1599. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Certain veterans who receive more than 21 days of extended care services provided or paid for by VA are liable for copayments for the care they receive. Section 1710B(d)(2) of title 38, United States Code, requires VA to develop a methodology to determine the amount of those copayments. The methodology must establish a maximum monthly copayment based on the income and assets of the veteran and the veteran's spouse, and must protect the spouse of a veteran from financial hardship by excluding some of the income and assets of the veteran and spouse from the copayment obligation.

VA established its methodology in 38 CFR 17.111. Under the current rule, veterans who are subject to copayment obligations must pay $5 to $97 per day, depending on the type of extended care received, up to the maximum monthly copayment amount. Married veterans who receive over 180 days of extended care and who have a spouse residing in the community are eligible for spousal resource protection. The spousal resource protection excludes a certain amount of the veteran's and spouse's liquid assets, the ''spousal resource protection amount,'' from consideration in determining a veteran's maximum copayment obligation. Thus, a higher spousal resource protection amount provides greater benefit to the veteran and spouse because it increases the portion of the family's liquid assets that

are available for expenses other than copayments.

Under current § 17.111(d)(2)(vi), the ''spousal resource protection amount'' is the total value of the veteran's and spouse's liquid assets up to $89,280. This figure was derived from the comparable Medicaid spousal allowance, the Maximum Community Spouse Resource Standard, in effect when we promulgated § 17.111(d)(2)(vi). The comparable Medicaid provisions, known as the spousal impoverishment provisions, were enacted by Congress in 1988 to protect married couples from having to deplete their combined savings before Medicaid would pay for certain long-term care services. Under these provisions, states participating in Medicaid are required to protect a certain amount of the couple's combined resources within federally mandated Minimum and Maximum Community Spouse Resource Standards. To keep pace with inflation, these standards are determined annually based on the Consumer Price Index. The Maximum Community Spouse Resource Standard in effect on the date of this proposed rule is $115,920.

By contrast, VA's current definition of the spousal resource protection amount has no provision to allow for automatic annual adjustments, and we have not amended the amount since the final rule was published on July 1, 2004 (69 FR 39845). To ensure that a veteran's spouse living in the community is able to maintain sufficient liquid assets while the veteran is receiving extended care services for longer than 180 days, we propose to amend paragraph (d)(2)(vi) to provide that the spousal resource protection amount be adjusted annually based on the Maximum Community Spouse Resource Standard. This would ensure that the spousal resource protection amount accounts for inflation and is consistent with the comparable protections for spouses of Medicaid recipients.

We note that in implementing CMS' standards, many states chose to adopt the Maximum Community Spouse Resource Standard amount, providing recipients with the maximum possible protection. Others selected the Minimum Community Resource Standard amount, giving recipients that amount of protection and no more. When we initially proposed defining ''spousal resource protection amount'' on October 16, 2003 (68 FR 59557), at least 23 State Medicaid Programs used $89,280 as the benchmark for protecting spousal assets for Medicaid purposes. This figure was the Maximum Community Spouse Resource Standard in effect at that time.

We adopted the Maximum Community Spouse Resource Standard in response to the statutory mandate that the methodology we develop for establishing copayment amounts for extended care services must protect the spouse of a veteran from financial hardship by not counting all of the income and assets of the veteran and spouse. 38 U.S.C. 1710B(d)(2)(B). Veterans and their non-institutionalized spouses would still benefit if VA chose a lower number for the spousal resource protection amount, but this would result in a lesser degree of liquid asset protection than that realized by many similarly situated spouses of non-veterans applying for Medicaid benefits for certain long-term care services outside of VA.

Community spouses (spouses who are not institutionalized) must maintain a separate residence, and they have daily living expenses separate and apart from those attributable to the veteran receiving extended care services. It is important that the spouses be able to maintain assets for these expenses. VA believes that the Maximum Community Spouse Resource Standard remains the appropriate benchmark for determining the spousal resource protection amount.

Although VA always applied the $89,280 amount in the current rule, the rule actually defines the spousal resource protection amount as the value of liquid assets ''not to exceed'' $89,280 if the spouse is not institutionalized. This places a ceiling on the value of liquid assets that can be retained but does not set a floor, a minimum amount below which the spousal resource protection amount cannot fall. This could be interpreted to mean that VA may choose to assign a lesser dollar value as the spousal resource protection amount. VA believes that this creates an unacceptable degree of uncertainty for veterans utilizing extended care services as well as spouses living in the community. To address this issue, we propose to amend the definition of the spousal resource protection amount to state that it will be equal to the Maximum Community Spouse Resource Standard published by the CMS as of January 1 of the current calendar year if the spouse is residing in the community (not institutionalized).

VA believes that the proposed changes to paragraph (d)(2)(vi)—defining the spousal resource protection amount as equal to the Maximum Community Resource Amount published by the CMS, and ensuring that this amount adjusts annually—will provide a greater deal of protection to the veteran and the non-institutionalized spouse during a change in circumstances that can place financial strains on the family. Further, VA believes that these proposed changes will eliminate any uncertainty that may exist regarding the value of liquid assets that may be retained by the non-institutionalized spouse.

In addition to the above, we propose to remove § 17.111(g), which consists entirely of a copy of VA Form 10–10EC, Application for Extended Care Services. The form is readily available to veterans both in hard copy and electronically, and we do not believe that the public uses or relies on the reprint of this form in the Code of Federal Regulations. Moreover, the process of amending a regulation can be lengthy. If amendments are required to the form, the reprint of it in paragraph (g) may be out of date for some period of time while the regulation is updated through the regulatory process. In short, we no longer believe it is useful to include forms in our regulations.

Effect of Rulemaking

The Code of Federal Regulations, as proposed to be revised by this proposed rulemaking, would represent the exclusive legal authority on this subject. No contrary rules or procedures would be authorized. All VA guidance would be read to conform with this proposed rulemaking if possible or, if not possible, such guidance would be superseded by this rulemaking.

Paperwork Reduction Act

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would directly affect only individuals and would not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety

effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action'' requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.016, Veterans State Hospital Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Interim Chief of Staff, Department of Veterans Affairs, approved this document on April 11, 2013 for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and Dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

Dated: April 17, 2013 .

Robert C. McFetridge,

Director of Regulation Policy and Management, Office of General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 17 as set forth below:

PART 17—MEDICAL

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

■ 2. Amend § 17.111 by:

■ a. Revising paragraph (d)(2)(vi).

■ b. Removing paragraph (g).

The revision reads as follows:

§ 17.111 Copayments for extended care services.

* * * * *

(d) * * *

(2) * * *

(vi) *Spousal resource protection amount* means the value of liquid assets equal to the Maximum Community Spouse Resource Standard published by the Centers for Medicare and Medicaid Services (CMS) as of January 1 of the current calendar year if the spouse is residing in the community (not institutionalized).

* * * * *

[FR Doc. 2013–09396 Filed 4–19–13; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2012–0894; FRL–9804–9]

Approval and Promulgation of Implementation Plans; Tennessee: New Source Review-Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve, through parallel processing, portions of a draft revision to the Tennessee State Implementation Plan (SIP) submitted by the Tennessee Department of Environment and Conservation (TDEC) through the Division of Air Pollution Control, on October 4, 2012. The draft SIP revision modifies Tennessee's New Source Review (NSR) Prevention of Significant Deterioration (PSD) program to adopt, into the Tennessee SIP, federal PSD requirements regarding fine particulate matter ($PM_{2.5}$) increments. EPA is proposing to approve portions of Tennessee's October 4, 2012, SIP revision because the Agency has preliminarily determined that it is consistent with the Clean Air Act (CAA or Act) and EPA regulations regarding NSR permitting.

DATES: Comments must be received on or before May 22, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2012–0894 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *Email: R4–RDS@epa.gov.*

3. *Fax:* (404) 562–9019.

4. *Mail:* EPA–R04–OAR–2012–0894, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Ms. Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW.,

Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. ''EPA–R04–OAR–2012–0894.'' EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: For information regarding the Tennessee SIP, contact Ms. Twunjala Bradley, 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. Ms. Bradley's telephone number is (404) 562–9352; email address: *bradley.twunjala@epa.gov.* For information regarding NSR, contact Ms. Yolanda Adams, Air Permits Section, at the same address above. Ms. Adams' telephone number is (404) 562–9241; email address: *adams.yolanda@epa.gov.* For information regarding the $PM_{2.5}$ national ambient air quality standards (NAAQS), contact Mr. Joel Huey, Regulatory Development Section, at the same address above. Mr. Huey's telephone number is (404) 562–9104; email address: *huey.joel@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What is parallel processing?
II. What action is EPA proposing?
III. What is the background for EPA's proposed action?
IV. What is EPA's analysis of Tennessee's SIP revision?
V. Proposed Action
VI. Statutory and Executive Order Reviews

I. What is parallel processing?

Consistent with EPA regulations found at 40 CFR Part 51, Appendix V, section 2.3.1, for purposes of expediting review of a SIP submittal, parallel processing allows a state to submit a plan to EPA prior to actual adoption by the state. Generally, the state submits a copy of the proposed regulation or other revisions to EPA before conducting its public hearing. EPA reviews this proposed state action and prepares a notice of proposed rulemaking. EPA's notice of proposed rulemaking is published in the **Federal Register** during the same time frame that the state is holding its public process. The state and EPA then concurrently provide public comment periods on both the proposed state and federal actions.

If the revision that is finally adopted and submitted by the state is changed in aspects other than those identified in the proposed rulemaking on the parallel process submission, EPA will evaluate those changes and, if necessary and appropriate, issue another notice of proposed rulemaking to provide the public with notice of those changes. Any final rulemaking action by EPA will occur only after the SIP revision has been adopted by the state and submitted formally to EPA for incorporation into the SIP.

On October 4, 2012, the State of Tennessee, through TDEC, submitted a request for parallel processing of a draft SIP revision that the State has taken through public comment. TDEC requested parallel processing so that EPA could begin to take action on its draft SIP revisions in advance of the State's submission of the final SIP revisions. As stated above, the final rulemaking action by EPA will occur only after the SIP revision has been: (1) Adopted by Tennessee; (2) submitted formally to EPA for incorporation into the SIP; and, (3) evaluated by EPA, including any changes made by the State after the October 4, 2012, draft was submitted to EPA.

II. What action is EPA proposing?

On October 4, 2012, TDEC submitted a draft SIP revision to EPA for approval into the Tennessee SIP to adopt rules equivalent to federal requirements for NSR permitting. The SIP submittal changes Tennessee's Air Quality Regulations, Chapter 1200–03–09—*Construction and Operating Permits,* Rule Number .01—Construction Permits, to adopt PSD requirements related to the implementation of the $PM_{2.5}$ NAAQS as promulgated in the rule entitled ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC), Final Rule,'' 75 FR 64864 (October 20, 2010) (hereafter referred to as the ''$PM_{2.5}$ PSD Increments-SILs-SMC Rule''). However, in this action EPA is not proposing to approve Tennessee's adoption of the $PM_{2.5}$ SIL thresholds and provisions, or the SMC promulgated in EPA's $PM_{2.5}$ PSD Increments-SILs-SMC Rule.[1] EPA is proposing to approve the remainder of Tennessee's October 4, 2012, draft SIP revision because it is consistent with the CAA and EPA regulations regarding NSR permitting.

[1] TDEC has indicated that the final SIP revision related to the $PM_{2.5}$ PSD Increments-SILs-SMC Rule will include a request that EPA not take action on the SIL thresholds and provisions or the SMC portions of its SIP revision. See Section IV below for more details.

In addition on February 26, 2013, Tennessee provided a final submission to EPA which corrects the State's definition of *regulated NSR pollutant* at Chapter 1200–03–09–.01(4)(b)47(vi) by removing the term ''particulate matter (PM) emissions'' from the condensable PM requirements to be consistent with EPA's October 25, 2012, rulemaking entitled ''Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$): Amendment to the Definition of ''Regulated NSR Pollutant'' Concerning Condensable Particulate Matter, Final Rule,'' (hereafter referred to as the Condensable PM Correction Rule). *See* 77 FR 65107. EPA never took action to include this term into Tennessee's SIP. Therefore, this submission is administrative in nature to correct Tennessee's state laws and does not require any action by EPA—EPA is simply pointing out this issue for clarification purposes. Please see section III.B for more information.

III. What is the background for EPA's proposed action?

Today's proposed action to revise Tennessee's SIP relates to PSD provisions promulgated in EPA's $PM_{2.5}$ PSD Increments-SILs-SMC Rule. More detail on the $PM_{2.5}$ PSD Increments-SILs-SMC Rule can be found in EPA's October 20, 2010, final rulemaking and is summarized below. *See* 75 FR 64864. For more information on the NSR Program and the $PM_{2.5}$ NAAQS, please refer to the $PM_{2.5}$ PSD Increments-SILs-SMC Rule.

A. $PM_{2.5}$ PSD Increments-SILs-SMC-Rule

On October 20, 2010, EPA finalized the $PM_{2.5}$ PSD Increments-SILs-SMC Rule to implement the $PM_{2.5}$ NAAQS for NSR. This included establishing required $PM_{2.5}$ increments pursuant to section 166(a) of the CAA to prevent significant deterioration of air quality in areas meeting the NAAQS. Today's action pertains only to the $PM_{2.5}$ increments (and relevant related revisions) promulgated in the October 20, 2010, rule.[2]

Tennessee's October 4, 2012, draft SIP revision adopts NSR changes promulgated in the $PM_{2.5}$ PSD Increments-SILs-SMC Rule to be consistent with the federal NSR regulations and to appropriately implement the State's NSR program for the $PM_{2.5}$ NAAQS. For the reasons explained below, EPA is not proposing in this rulemaking to take action to approve Tennessee's proposed revisions related to the SILs (at paragraph (k)(2) of section 51.166 and 52.21) and SMC (at paragraph (i)(5) of section 51.166 and 52.21) promulgated in the $PM_{2.5}$ PSD Increments-SILs-SMC Rule into the Tennessee SIP. The SILs and SMC portions of the $PM_{2.5}$ PSD Increments-SILs-SMC Rule were recently vacated (and in the case of the SILs, also remanded to EPA) by the D.C. Circuit Court of Appeals *See Sierra Club* v. *EPA,* 705 F.3d 458 (D.C. Cir. 2013). More details regarding Tennessee's changes to its PSD regulations and SILs-SMC litigation are also summarized below.

1. What are PSD increments?

As established in part C of title I of the CAA, EPA's PSD program protects public health from adverse effects of air pollution by ensuring that construction of new or modified sources in attainment or unclassifiable areas does not lead to significant deterioration of air quality while simultaneously ensuring that economic growth will occur in a manner consistent with preservation of clean air resources. Under section 165(a)(3) of the CAA, a PSD permit applicant must demonstrate that emissions from the proposed construction and operation of a facility ''will not cause, or contribute to, air pollution in excess of any maximum allowable increase or allowable concentration for any pollutant.'' In other words, when a source applies for a permit to emit a regulated pollutant in an area that is designated as attainment or unclassifiable for a NAAQS, the state and EPA must determine if emissions of the regulated pollutant from the source will cause significant deterioration in air quality. Significant deterioration occurs when the amount of the new pollution exceeds the applicable PSD increment, which is the ''maximum allowable increase'' of an air pollutant allowed to occur above the applicable baseline concentration[3] for that pollutant. PSD increments prevent air quality in clean (*e.g.,* attainment) areas from deteriorating to the level set by the NAAQS. Therefore, an increment is the mechanism used to estimate ''significant deterioration'' of air quality for a pollutant in an area.

For PSD baseline purposes, a baseline area for a particular pollutant emitted from a source includes the attainment or unclassifiable area in which the source is located as well as any other attainment or unclassifiable area in which the source's emissions of that pollutant are projected (by air quality modeling) to result in an ambient pollutant increase of at least 1 microgram per meter cubed ($\mu g/m^3$) (annual average). *See* 40 CFR 52.21(b)(15)(i). Under EPA's existing regulations, the establishment of a baseline area for any PSD increment results from the submission of the first complete PSD permit application and is based on the location of the proposed source and its emissions impact on the area. Once the baseline area is established, subsequent PSD sources locating in that area need to consider that a portion of the available increment may have already been consumed by previous emissions increases. In general, the submittal date of the first complete PSD permit application in a particular area is the operative ''baseline date'' after which new sources must evaluate increment consumption.[4] On or before the date of the first complete PSD application, emissions generally are considered to be part of the baseline concentration, except for certain emissions from major stationary sources. Most emissions increases that occur after the baseline date will be counted toward the amount of increment consumed. Similarly, emissions decreases after the baseline date restore or expand the amount of increment that is available. *See* 75 FR 64864. As described in the $PM_{2.5}$ PSD Increments-SILs-SMC Rule, and pursuant to the authority under section 166(a) of the CAA, EPA promulgated numerical increments for $PM_{2.5}$ as a new pollutant[5] for which NAAQS were established after August 7, 1977,[6] and derived 24-hour and annual $PM_{2.5}$ increments for the three area classifications (Class I, II and III) using the ''contingent safe harbor'' approach. *See* 75 FR 64864 at 64869 and the

[2] The October 20, 2010, rule also established $PM_{2.5}$ SILs and SMC. *See* 75 FR 64864, 64900. These two provisions were the subject of litigation by the Sierra Club. *See* section IV of this rulemaking for more information on the litigation or in the docket for today's proposed action using docket ID: EPA–R04–OAR–2012–0894.

[3] Section 169(4) of the CAA provides that the baseline concentration of a pollutant for a particular baseline area is generally the air quality at the time of the first application for a PSD permit in the area.

[4] Baseline dates are pollutant-specific. That is, a complete PSD application establishes the baseline date only for those regulated NSR pollutants that are projected to be emitted in significant amounts (as defined in the regulations) by the applicant's new source or modification. Thus, an area may have different baseline dates for different pollutants.

[5] EPA generally characterized the $PM_{2.5}$ NAAQS as a NAAQS for a new indicator of PM. EPA did not replace the PM_{10} NAAQS with the NAAQS for $PM_{2.5}$ when the $PM_{2.5}$ NAAQS were promulgated in 1997. EPA rather retained the annual and 24-hour NAAQS for $PM_{2.5}$ as if $PM_{2.5}$ was a new pollutant even though EPA had already developed air quality criteria for PM generally. *See* 75 FR 64864 (October 20, 2010).

[6] EPA interprets 166(a) to authorize EPA to promulgate pollutant-specific PSD regulations meeting the requirements of section 166(c) and 166(d) for any pollutant for which EPA promulgates a NAAQS after 1977.

ambient air increment table at 40 CFR 51.166(c)(1) and 52.21(c).

In addition to PSD increments for the $PM_{2.5}$ NAAQS, the $PM_{2.5}$ PSD Increments-SILs-SMC Rule amended the definition at 40 CFR 51.166 and 52.21 for ''major source baseline date'' and ''minor source baseline date'' (including trigger dates) to establish the $PM_{2.5}$ NAAQS specific dates associated with the implementation of $PM_{2.5}$ PSD increments. *See* 75 FR 64864. In accordance with section 166(b) of the CAA, EPA required the states to submit revised implementation plans to EPA for approval (to adopt the $PM_{2.5}$ PSD increments) within 21 months from promulgation of the final rule (by July 20, 2012). Regardless of when a state submits its revised SIP, the emissions from major sources subject to PSD for $PM_{2.5}$ for which construction commenced after October 20, 2010 (major source baseline date), consume $PM_{2.5}$ increment and should be included in the increment analyses occurring after the minor source baseline date is established for an area under the state's revised PSD program. *See* 75 FR 64864. As discussed above, Tennessee's October 4, 2012, draft SIP revision adopts the $PM_{2.5}$ PSD increment permitting requirements promulgated in the $PM_{2.5}$ PSD Increments-SILs-SMC Rule.

B. Condensable PM Correction

On May 16, 2008, EPA finalized the NSR $PM_{2.5}$ Rule[7] to implement the $PM_{2.5}$ NAAQS including a revision to the definition of ''*regulated NSR pollutant*'' for PSD to add a paragraph providing that ''particulate matter (PM) emissions,'' ''$PM_{2.5}$ emissions'' and ''PM_{10} emissions'' shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures and that on or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, $PM_{2.5}$ and PM_{10} in permits. *See* 73 FR 28321, 40 CFR 51.166(b)(49)(vi), 52.21(b)(50)(vi) and ''Emissions Offset Interpretative Ruling'' (40 CFR part 51, appendix S).[8]

On March 16, 2012, however, EPA proposed the Condensable PM Correction Rule[9] to revise the definition of ''*regulated NSR pollutant*'' to remove the inadvertent requirement (established in the NSR $PM_{2.5}$ Rule) that the measurement of condensable ''*particulate matter emissions*'' be included as part of the measurement and regulation of particulate matter.[10] (*See* 77 FR 15656). At the time of EPA's proposal for the Condensable PM Correction rule, EPA was also considering approval of Tennessee's July 29, 2011, SIP revision adopting the NSR permitting requirements promulgated in the May 16, 2008, NSR $PM_{2.5}$ Rule including the term ''*particulate matter emissions*,'' in the definition of ''*regulated NSR pollutant.*''

As a result of EPA's March 16, 2012, proposed rulemaking, Tennessee submitted a letter to EPA on May 1, 2012, requesting that EPA not approve the term ''*particulate matter emissions* into the Tennessee SIP (at rule 1200–03–09–.01(4)(b)47(vi)) as part of the definition for ''*regulated NSR pollutant.*'' Consistent with this request, EPA took final action to approve Tennessee's July 29, 2011, NSR $PM_{2.5}$ Rule SIP revision on July 30, 2012, excluding the term ''*particulate matter emissions,*'' and at the time did not act on the portion of Tennessee's revised ''*regulated NSR pollutant*'' definition as requested by the State. *See* 77 FR 44481. EPA finalized the Condensable PM Correction Rule on October 25, 2012. In an effort to be consistent with EPA's final Condensable PM Correction Rule, Tennessee's February 23, 2013, submittal removed the term ''*particulate matter emissions*'' from the Tennessee's state law definition for ''*regulated NSR pollutant.*'' EPA interprets this February 23, 2013, submittal as superceding the portion of Tennessee's July 29, 2011, submittal that purported to include the term ''*particulate matter emissions,*'' in the definition of ''*regulated NSR pollutant.*'' As such, there is no longer a SIP submittal to include the term ''*particulate matter emissions*'' in the definition of ''*regulated NSR pollutant*'' before the Agency, and thus, no further action is required as the provision was never approved into the SIP.

IV. What is EPA's analysis of Tennessee's SIP revision?

Tennessee currently has a SIP-approved NSR program for new and modified stationary sources. TDEC's PSD preconstruction rules are found at Air Quality Regulations, Chapter 1200–03–09—*Construction and Operating Permits,* Rule Number .01—Construction Permits and apply to major stationary sources or modifications constructed in areas designated attainment areas or unclassifiable/attainment areas as required under part C of title I of the CAA with respect to the NAAQS. TDEC's October 4, 2012, draft SIP revision asks EPA to approve the following provisions into the Tennessee SIP at Chapter 1200–03–09.01(4) as promulgated in the October 20, 2010, $PM_{2.5}$ PSD Increments-SILs-SMC Rule: (1) PSD increments for $PM_{2.5}$ annual and 24-hour NAAQS pursuant to section 166(a) of the CAA; (2) SILs used as a screening tool (used by a major source subject to PSD) to evaluate the impact a proposed major source or modification may have on the NAAQS or PSD increment; and, (3) a SMC to determine the level of data gathering required of a major source in support of its PSD permit application for $PM_{2.5}$ emissions.

Specifically, Tennessee's October 4, 2012, draft SIP revision asks EPA to approve into the SIP the following $PM_{2.5}$ PSD provisions promulgated October 20, 2010: (1) The $PM_{2.5}$ PSD increments at TDEC's ambient air increments table Rule 1200–.03–09–.01(4)(f); (2) revisions to the definition of ''baseline date'' at Rule 1200–03–09–.01(4)(b)15 to establish the $PM_{2.5}$ ''major source baseline date'' (consistent with 40 CFR 51.166(b)(14)(i)(a) and (c)) and to establish the $PM_{2.5}$ ''trigger date'' used for determining the ''minor source baseline date'' (consistent with 40 CFR 51.166(b)(14)(ii)(c)); and, (3) a revision to the definition of ''baseline area'' at Rule 1200–03–09–.01(4)(b)14 to specify pollutant air quality impact annual averages (consistent with 40 CFR 51.166(b)(15)(i) and (ii)). These changes provide for the implementation of the $PM_{2.5}$ PSD increments for the $PM_{2.5}$ NAAQS in the State's PSD program. In today's action, EPA is proposing to approve Tennessee's October 4, 2012, draft SIP revision to address $PM_{2.5}$ PSD increments.

On December 4, 2012, EPA submitted an official comment letter to TDEC

[7] The NSR $PM_{2.5}$ Rule entitled ''Implementation of the New Source Review Program for Particulate Matter Less than 2.5 Micrometers,'' Final Rule, 73 FR 28321 (May 16, 2008) revised the federal NSR program requirements at 40 CFR 51.166, 51.165, 52,21 and Emissions Offset Interpretative Ruling'' (40 CFR part 51, appendix S) to establish the framework for implementing preconstruction permit review for the $PM_{2.5}$ NAAQS in both attainment and nonattainment areas.

[8] A similar paragraph added to the nonattainment new source review (NNSR) rule does not include the term ''*particulate matter emissions.*'' *See* 40 CFR 51.165(a)(1)(xxxvii)(D).

[9] The rulemaking proposed to remove the term ''*particulate matter emissions*'' from federal PSD regulations at 40 CFR 51.166(b)(49)(vi), 52.21(b)(50)(vi) and part 51, appendix S (''Emissions Offset Interpretative Ruling'').

[10] The term ''particulate matter emissions'' includes particles that are larger than $PM_{2.5}$ and PM_{10} and is an indicator measured under various New Source Performance Standards (NSPS) (40 CFR part 60). In addition to the NSPS for PM, it is noted that states regulated ''particulate matter emissions'' for many years in their SIPs for PM, and the same indicator has been used as a surrogate for determining compliance with certain standards contained in 40 CFR part 63, regarding National Emission Standards for Hazardous Air Pollutants.

regarding the State's October 4, 2012, draft SIP revision, documenting the omission of (1) the $PM_{2.5}$ increments in Tennessee's Class I variance provisions at 1200–03–09–.01(4)(n)3, including the administrative change to replace the term ''particulate matter'' with ''$PM_{2.5}$, PM_{10}'' (consistent with federal rule at 40 CFR 51.166(c) and (p)(5)); and (2) the administrative changes to the definition of ''baseline date'' at 1200–03–09–.01(4)(b)15(i) and (ii)(I) to replace the term ''particulate matter'' with ''PM_{10}.'' TDEC has indicated they intend to address these inadvertent omissions in the final SIP submission to be consistent with the federal provisions promulgated in the $PM_{2.5}$ PSD Increments-SIL-SMC rule.

EPA's authority to implement the $PM_{2.5}$ SILs at paragraph (k)(2) of section 51.166 and 52.21 and SMC at paragraph (i)(5) of section 51.166 and 52.21 for PSD purposes as promulgated in the October 20, 2010 $PM_{2.5}$ PSD Increments-SILs-SMC Rule, was challenged by the Sierra Club. *Sierra Club* v. *EPA,* 705 F.3d 458 (D.C. Cir. 2013). On January 22, 2013, the D.C. Circuit Court issued an order vacating and remanding to the EPA for further consideration those portions of the October 20, 2010, rule addressing the $PM_{2.5}$ SILs, except for the parts codifying the $PM_{2.5}$ SILs in the NSR rule at 40 CFR 51.165(b)(2). In addition the D.C. Circuit Court also vacated parts of the October 20, 2010, rule establishing the $PM_{2.5}$ SMC finding that those parts of the rule exceed the EPA's statutory authority. *Sierra Club* v. *EPA,* 705 F.3d 458, 469. *See* the docket for today's action for more information on the litigation and the court's decision using docket ID EPA–R04–OAR–2012–0894. As a result of the January 22, 2013, D.C. Circuit order and consultations with EPA Region 4, TDEC has indicated that in the State's final SIP submission to adopt the regulations promulgated in the $PM_{2.5}$ Increments-SILs-SMC Rule, they intend to request EPA not take action to approve into the Tennessee SIP the $PM_{2.5}$ SILs and SMC. Accordingly, EPA is not proposing action at this time on any portions of Tennessee's PSD SIP submission regarding the $PM_{2.5}$ SILs and SMC provisions described at 40 CFR 51.166 and 52.21, which have now been vacated and remanded.

V. Proposed Action

EPA is proposing to approve portions of Tennessee's October 4, 2012, draft SIP revision adopting PSD $PM_{2.5}$ Increments promulgated in the October 20, 2010, $PM_{2.5}$ PSD Increments-SILs-SMC rule. EPA is not, however, proposing action to approve in this rulemaking the portion of Tennessee's October 4, 2012, draft SIP revision incorporating the $PM_{2.5}$ SILs and SMC thresholds and provisions promulgated in EPA's $PM_{2.5}$ PSD Increment-SILs-SMC Rule. EPA has reviewed Tennessee's October 4, 2012, draft SIP revision, and has made the preliminary determination that this portion of the draft SIP revision is approvable because it is consistent with section 110 of the CAA and EPA regulations regarding NSR permitting.

VI. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 F43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: April 8, 2013.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2013–09316 Filed 4–19–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 121024581–3333–01]

RIN 0648–BC71

List of Fisheries for 2013

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

ACTION: Proposed rule.

SUMMARY: The National Marine Fisheries Service (NMFS) publishes its proposed List of Fisheries (LOF) for 2013, as required by the Marine Mammal Protection Act (MMPA). The proposed LOF for 2013 reflects new information on interactions between commercial fisheries and marine mammals. NMFS must classify each commercial fishery on the LOF into one of three categories under the MMPA based upon the level of serious injury and mortality of marine mammals that occurs incidental to each fishery. The classification of a fishery in the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan (TRP) requirements. The fishery classifications and list of marine

mammal stocks incidentally injured or killed described in the Final LOF for 2012 remain in effect until the effective date of the Final LOF for 2013.

DATES: Comments must be received by May 22, 2013.

ADDRESSES: Send comments by any one of the following methods.

(1) *Electronic Submissions:* Submit all electronic comments through the Federal eRulemaking portal: *http://www.regulations.gov* (follow instructions for submitting comments).

(2) *Mail:* Chief, Marine Mammal and Sea Turtle Conservation Division, Attn: List of Fisheries, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

Comments regarding the burden-hour estimates, or any other aspect of the collection of information requirements contained in this proposed rule, should be submitted in writing to Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, or to Stuart Levenback, OMB, by email to *Stuart_Levenbach@omb.eop.gov.*

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (e.g., name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Brandon Sousa, Office of Protected Resources, 301–427–8498; Allison Rosner, Northeast Region, 978–281–9328; Jessica Powell, Southeast Region, 727–824–5312; Elizabeth Petras, Southwest Region, 562–980–3238; Brent Norberg, Northwest Region, 206–526–6550; Bridget Mansfield, Alaska Region, 907–586–7642; Nancy Young, Pacific Islands Region, 808–944–2282. Individuals who use a telecommunications device for the hearing impaired may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 4 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

What is the list of fisheries?

Section 118 of the MMPA requires NMFS to place all U.S. commercial fisheries into one of three categories based on the level of incidental serious injury and mortality of marine mammals occurring in each fishery (16 U.S.C. 1387(c)(1)). The classification of a fishery on the LOF determines whether participants in that fishery may be required to comply with certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements. NMFS must reexamine the LOF annually, considering new information in the Marine Mammal Stock Assessment Reports (SAR) and other relevant sources, and publish in the **Federal Register** any necessary changes to the LOF after notice and opportunity for public comment (16 U.S.C. 1387 (c)(1)(C)).

How does NMFS determine in which category a fishery is placed?

The definitions for the fishery classification criteria can be found in the implementing regulations for section 118 of the MMPA (50 CFR 229.2). The criteria are also summarized here.

Fishery Classification Criteria

The fishery classification criteria consist of a two-tiered, stock-specific approach that first addresses the total impact of all fisheries on each marine mammal stock and then addresses the impact of individual fisheries on each stock. This approach is based on consideration of the rate, in numbers of animals per year, of incidental mortalities and serious injuries of marine mammals due to commercial fishing operations relative to the potential biological removal (PBR) level for each marine mammal stock. The MMPA (16 U.S.C. 1362 (20)) defines the PBR level as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. This definition can also be found in the implementing regulations for section 118 of the MMPA (50 CFR 229.2).

Tier 1: If the total annual mortality and serious injury of a marine mammal stock, across all fisheries, is less than or equal to 10 percent of the PBR level of the stock, all fisheries interacting with the stock would be placed in Category III (unless those fisheries interact with other stock(s) in which total annual mortality and serious injury is greater than 10 percent of PBR). Otherwise, these fisheries are subject to the next tier (Tier 2) of analysis to determine their classification.

Tier 2, Category I: Annual mortality and serious injury of a stock in a given fishery is greater than or equal to 50 percent of the PBR level (i.e., frequent incidental mortality and serious injuries of marine mammals).

Tier 2, Category II: Annual mortality and serious injury of a stock in a given fishery is greater than 1 percent and less than 50 percent of the PBR level (i.e., occasional incidental mortality and serious injuries of marine mammals).

Tier 2, Category III: Annual mortality and serious injury of a stock in a given fishery is less than or equal to 1 percent of the PBR level (i.e., a remote likelihood or no known incidental mortality and serious injuries of marine mammals).

While Tier 1 considers the cumulative fishery mortality and serious injury for a particular stock, Tier 2 considers fishery-specific mortality and serious injury for a particular stock. Additional details regarding how the categories were determined are provided in the preamble to the final rule implementing section 118 of the MMPA (60 FR 45086, August 30, 1995).

Because fisheries are classified on a per-stock basis, a fishery may qualify as one Category for one marine mammal stock and another Category for a different marine mammal stock. A fishery is typically classified on the LOF at its highest level of classification (e.g., a fishery qualifying for Category III for one marine mammal stock and for Category II for another marine mammal stock will be listed under Category II).

Other Criteria That May Be Considered

There are several fisheries on the LOF classified as Category II that have no recent documented injuries or mortalities of marine mammals, or fisheries that did not result in a serious injury or mortality rate greater than 1 percent of a stock's PBR level based on known interactions. NMFS has classified these fisheries by analogy to other Category I or II fisheries that use similar fishing techniques or gear that are known to cause mortality or serious injury of marine mammals, or according to factors discussed in the final LOF for 1996 (60 FR 67063, December 28, 1995) and listed in the regulatory definition of a Category II fishery, ''In the absence of reliable information indicating the frequency of incidental mortality and serious injury of marine mammals by a commercial fishery, NMFS will determine whether the incidental serious injury or mortality is ''frequent,'' ''occasional,'' or ''remote'' by evaluating other factors such as fishing techniques,

gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, and the species and distribution of marine mammals in the area, or at the discretion of the Assistant Administrator for Fisheries'' (50 CFR 229.2).

Further, eligible commercial fisheries not specifically identified on the LOF are deemed to be Category II fisheries until the next LOF is published (50 CFR 229.2).

How does NMFS determine which species or stocks are included as incidentally killed or injured in a fishery?

The LOF includes a list of marine mammal species or stocks incidentally killed or injured in each commercial fishery. To determine which species or stocks are included as incidentally killed or injured in a fishery, NMFS annually reviews the information presented in the current SARs. The SARs are based upon the best available scientific information and provide the most current and inclusive information on each stock's PBR level and level of interaction with commercial fishing operations. NMFS also reviews other sources of new information, including observer data, stranding data, and fisher self-reports.

In the absence of reliable information on the level of mortality or injury of a marine mammal stock, or insufficient observer data, NMFS will determine whether a species or stock should be added to, or deleted from, the list by considering other factors such as: changes in gear used, increases or decreases in fishing effort, increases or decreases in the level of observer coverage, and/or changes in fishery management that are expected to lead to decreases in interactions with a given marine mammal stock (such as a TRP or a fishery management plan (FMP)). In these instances, NMFS will provide case-specific justification in the LOF for changes to the list of species or stocks incidentally killed or injured.

How does NMFS determine the levels of observer coverage in a fishery on the LOF?

Data obtained from the observer program and observer coverage levels are important tools in estimating the level of marine mammal mortality and serious injury in commercial fishing operations. The best available information on the level of observer coverage and the spatial and temporal distribution of observed marine mammal interactions, is presented in the SARs. Starting with the 2005 SARs, each SAR includes an appendix with detailed descriptions of each Category I and II fishery on the LOF, including observer coverage in those fisheries. The SARs generally do not provide detailed information on observer coverage in Category III fisheries because, under the MMPA, Category III fisheries are not required to accommodate observers aboard vessels due to the remote likelihood of mortality and serious injury of marine mammals. Fishery information presented in the SARs' appendices may include: level of federal observer coverage, target species, levels of fishing effort, spatial and temporal distribution of fishing effort, characteristics of fishing gear and operations, management and regulations, and interactions with marine mammals. Copies of the SARs are available on the NMFS Office of Protected Resources Web site at: *http://www.nmfs.noaa.gov/pr/sars/.* Information on observer coverage levels in Category I and II fisheries can also be found in the Category I and II fishery fact sheets on the NMFS Office of Protected Resources Web site: *http://www.nmfs.noaa.gov/pr/interactions/lof/.* Additional information on observer programs in commercial fisheries can be found on the NMFS National Observer Program's Web site: *http://www.st.nmfs.gov/st4/nop/.*

How do I find out if a specific fishery is in category I, II, or III?

This proposed rule includes three tables that list all U.S. commercial fisheries by LOF Category. Table 1 lists all of the commercial fisheries in the Pacific Ocean (including Alaska); Table 2 lists all of the commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean; and Table 3 lists all U.S.-authorized commercial fisheries on the high seas. A fourth table, Table 4, lists all commercial fisheries managed under applicable TRPs or take reduction teams (TRT).

Are high seas fisheries included on the LOF?

Beginning with the 2009 LOF, NMFS includes high seas fisheries in Table 3 of the LOF, along with the number of valid High Seas Fishing Compliance Act (HSFCA) permits in each fishery. As of 2004, NMFS issues HSFCA permits only for high seas fisheries analyzed in accordance with the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA). The authorized high seas fisheries are broad in scope and encompass multiple specific fisheries identified by gear type. For the purposes of the LOF, the high seas fisheries are subdivided based on gear type (e.g., trawl, longline, purse seine, gillnet, troll, etc.) to provide more detail on composition of effort within these fisheries. Many fisheries operate in both U.S. waters and on the high seas, creating some overlap between the fisheries listed in Tables 1 and 2 and those in Table 3. In these cases, the high seas component of the fishery is not considered a separate fishery, but an extension of a fishery operating within U.S. waters (listed in Table 1 or 2). NMFS designates those fisheries in Tables 1, 2, and 3 by a ''*'' after the fishery's name. The number of HSFCA permits listed in Table 3 for the high seas components of these fisheries operating in U.S. waters does not necessarily represent additional effort that is not accounted for in Tables 1 and 2. Many vessels/participants holding HSFCA permits also fish within U.S. waters and are included in the number of vessels and participants operating within those fisheries in Tables 1 and 2.

HSFCA permits are valid for five years, during which time FMPs can change. Therefore, some vessels/participants may possess valid HSFCA permits without the ability to fish under the permit because it was issued for a gear type that is no longer authorized under the most current FMP. For this reason, the number of HSFCA permits displayed in Table 3 is likely higher than the actual U.S. fishing effort on the high seas. For more information on how NMFS classifies high seas fisheries on the LOF, see the preamble text in the final 2009 LOF (73 FR 73032; December 1, 2008).

Where can I find specific information on fisheries listed on the LOF?

Starting with the 2010 LOF, NMFS developed summary documents, or fishery fact sheets, for each Category I and II fishery on the LOF. These fishery fact sheets provide the full history of each Category I and II fishery, including: when the fishery was added to the LOF, the basis for the fishery's initial classification, classification changes to the fishery, changes to the list of species or stocks incidentally killed or injured in the fishery, fishery gear and methods used, observer coverage levels, fishery management and regulation, and applicable TRPs or TRTs, if any. These fishery fact sheets are updated after each final LOF and can be found under ''How Do I Find Out if a Specific Fishery is in Category I, II, or III?'' on the NMFS Office of Protected Resources' Web site: *http://www.nmfs.noaa.gov/pr/interactions/lof/,* linked to the ''List of Fisheries by Year'' table. NMFS plans to

develop similar fishery fact sheets for each Category III fishery on the LOF. However, due to the large number of Category III fisheries on the LOF and the lack of accessible and detailed information on many of these fisheries, the development of these fishery fact sheets will take significant time to complete. NMFS anticipates posting Category III fishery fact sheets along with the final 2014 LOF, although this timeline may be revised as this exercise progresses.

Am I required to register under the MMPA?

Owners of vessels or gear engaging in a Category I or II fishery are required under the MMPA (16 U.S.C. 1387(c)(2)), as described in 50 CFR 229.4, to register with NMFS and obtain a marine mammal authorization to lawfully take non-endangered and non-threatened marine mammals incidental to commercial fishing operations. Owners of vessels or gear engaged in a Category III fishery are not required to register with NMFS or obtain a marine mammal authorization.

How do I register and receive my authorization certificate and injury/mortality reporting forms?

NMFS has integrated the MMPA registration process, implemented through the Marine Mammal Authorization Program (MMAP), with existing state and Federal fishery license, registration, or permit systems for Category I and II fisheries on the LOF. Participants in these fisheries are automatically registered under the MMAP and are not required to submit registration or renewal materials directly under the MMAP. In the Pacific Islands, Southwest, Northwest, and Alaska regions, NMFS will issue vessel or gear owners an authorization certificate and/or injury/mortality reporting forms via U.S. mail or with their state or Federal license at the time of renewal. In the Northeast region, NMFS will issue vessel or gear owners an authorization certificate via U.S. mail automatically at the beginning of each calendar year; but vessel or gear owners must request or print injury/mortality reporting forms by contacting the NMFS Northeast Regional Office at 978–281–9328 or by visiting the Northeast Regional Office Web site (*http://www.nero.noaa.gov/mmap*). In the Southeast region, NMFS will issue vessel or gear owners notification of registry and vessel or gear owners may receive their authorization certificate and/or injury/mortality reporting form by contacting the Southeast Regional Office at 727–209–5952 or by visiting the Southeast Regional Office Web site (*http://sero.nmfs.noaa.gov/pr/mm/mmap.htm*) and following the instructions for printing the necessary documents.

The authorization certificate, or a copy, must be on board the vessel while it is operating in a Category I or II fishery, or for non-vessel fisheries, in the possession of the person in charge of the fishing operation (50 CFR 229.4(e)). Although efforts are made to limit the issuance of authorization certificates to only those vessel or gear owners that participate in Category I or II fisheries, not all state and Federal permit systems distinguish between fisheries as classified by the LOF. Therefore, some vessel or gear owners in Category III fisheries may receive authorization certificates even though they are not required for Category III fisheries. Individuals fishing in Category I and II fisheries for which no state or Federal permit is required must register with NMFS by contacting their appropriate Regional Office (see **ADDRESSES**).

How do I renew my registration under the MMAP?

In Pacific Islands, Southwest, Alaska, or Northeast regional fisheries, registrations of vessel or gear owners are automatically renewed and participants should receive an authorization certificate by January 1 of each new year. In Northwest regional fisheries, vessel or gear owners receive authorization with each renewed state fishing license, the timing of which varies based on target species. Vessel or gear owners who participate in these regions and have not received authorization certificates by January 1 or with renewed fishing licenses must contact the appropriate NMFS Regional Office (see **ADDRESSES**).

In Southeast regional fisheries, vessel or gear owners registrations are automatically renewed and participants will receive a letter in the mail by January 1 instructing them to contact the Southeast Regional Office to have an authorization certificate mailed to them or to visit the Southeast Regional Office Web site (*http://sero.nmfs.noaa.gov/pr/mm/mmap.htm*) to print their own certificate.

Am I required to submit reports when I injure or kill a marine mammal during the course of commercial fishing operations?

In accordance with the MMPA (16 U.S.C. 1387(e)) and 50 CFR 229.6, any vessel owner or operator, or gear owner or operator (in the case of non-vessel fisheries), participating in a fishery listed on the LOF must report to NMFS all incidental injuries and mortalities of marine mammals that occur during commercial fishing operations, regardless of the category in which the fishery is placed (I, II, or III) within 48 hours of the end of the fishing trip. ''Injury'' is defined in 50 CFR 229.2 as a wound or other physical harm. In addition, any animal that ingests fishing gear or any animal that is released with fishing gear entangling, trailing, or perforating any part of the body is considered injured, regardless of the presence of any wound or other evidence of injury, and must be reported. Injury/mortality reporting forms and instructions for submitting forms to NMFS can be downloaded from: *http://www.nmfs.noaa.gov/pr/pdfs/interactions/mmap_reporting_form.pdf* or by contacting the appropriate Regional office (see **ADDRESSES**). Reporting requirements and procedures can be found in 50 CFR 229.6.

Am I required to take an observer aboard my vessel?

Individuals participating in a Category I or II fishery are required to accommodate an observer aboard their vessel(s) upon request from NMFS. MMPA section 118 states that an observer will not be placed on a vessel if the facilities for quartering an observer or performing observer functions are inadequate or unsafe; thereby, exempting vessels too small to accommodate an observer from this requirement. However, observer requirements will not be exempted, regardless of vessel size, for U.S. Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline vessels operating in special areas designated by the Pelagic Longline Take Reduction Plan implementing regulations (50 CFR 229.36(d)). Observer requirements can be found in 50 CFR 229.7.

Am I required to comply with any marine mammal take reduction plan regulations?

Table 4 in this proposed rule provides a list of fisheries affected by TRPs and TRTs. TRP regulations can be found at 50 CFR 229.30 through 229.37. A description of each TRT and copies of each TRP can be found at: *http://www.nmfs.noaa.gov/pr/interactions/trt/*. It is the responsibility of fishery participants to comply with applicable take reduction regulations.

Where can I find more information about the LOF and the MMAP?

Information regarding the LOF and the Marine Mammal Authorization

Program, including registration procedures and forms, current and past LOFs, information on each Category I and II fishery, observer requirements, and marine mammal injury/mortality reporting forms and submittal procedures, may be obtained at: *http://www.nmfs.noaa.gov/pr/interactions/lof/,* or from any NMFS Regional Office at the addresses listed below:

NMFS, Northeast Region, 55 Great Republic Drive, Gloucester, MA 01930–2298, Attn: Allison Rosner;

NMFS, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701, Attn: Jessica Powell;

NMFS, Southwest Region, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213, Attn: Elizabeth Petras;

NMFS, Northwest Region, 7600 Sand Point Way NE., Seattle, WA 98115, Attn: Brent Norberg, Protected Resources Division;

NMFS, Alaska Region, Protected Resources, P.O. Box 22668, 709 West 9th Street, Juneau, AK 99802, Attn: Bridget Mansfield; or

NMFS, Pacific Islands Region, Protected Resources, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814, Attn: Nancy Young.

Sources of Information Reviewed for the Proposed 2013 LOF

NMFS reviewed the marine mammal incidental serious injury and mortality information presented in the SARs for all fisheries to determine whether changes in fishery classification were warranted. The SARs are based on the best scientific information available at the time of preparation, including the level of serious injury and mortality of marine mammals that occurs incidental to commercial fishery operations and the PBR levels of marine mammal stocks. The information contained in the SARs is reviewed by regional Scientific Review Groups (SRGs) representing Alaska, the Pacific (including Hawaii), and the U.S. Atlantic, Gulf of Mexico, and Caribbean. The SRGs were created by the MMPA to review the science that informs the SARs, and to advise NMFS on marine mammal population status, trends, and stock structure, uncertainties in the science, research needs, and other issues.

NMFS also reviewed other sources of new information, including marine mammal stranding data, observer program data, fisher self-reports, reports to the SRGs, conference papers, FMPs, and ESA documents.

The proposed LOF for 2013 was based, among other things, on information provided in the NEPA and ESA documents analyzing authorized high seas fisheries; stranding data; fishermen self-reports through the MMAP; the final SARs for 2006 (72 FR 12774, March 19, 2007), 2007 (73 FR 21111, April 18, 2008), 2008 (74 FR 19530, April 29, 2009), 2009 (75 FR 12498, March 16, 2010), 2010 (76 FR 34054, June 10, 2011), and 2011 (77 FR 29969, May 21, 2012); and the draft SARs for 2012 (77 FR 47043, August 7, 2012). The SARs are available at: *http://www.nmfs.noaa.gov/pr/sars/.*

Fishery Descriptions

Beginning with the final 2008 LOF (72 FR 66048, November 27, 2007), NMFS describes each Category I and II fishery on the LOF. In each LOF, NMFS describes the fisheries classified as Category I or II that were not classified as such on a previous LOF (and therefore have not yet been described in the LOF). Descriptions of all Category I and II fisheries operating in U.S. waters may be found in the SARs, FMPs, and TRPs, through state agencies, or through the fishery summary documents available on the NMFS Office of Protected Resources Web site (*http://www.nmfs.noaa.gov/pr/interactions/lof/*). Additional details for Category I and II fisheries operating on the high seas are included in various FMPs, NEPA, or ESA documents.

The ''Alaska Bering Sea and Aleutian Islands rockfish trawl'' fishery is proposed for reclassification from Category III to Category II. Rockfish species fished include Pacific Ocean perch, northern rockfish, rougheye rockfish, shortraker rockfish, and other rockfish. Fishing effort in this fishery takes place in the U.S. Exclusive Economic Zone of the Eastern Bering Sea and the portion of the North Pacific Ocean adjacent to the Aleutian Islands, which is west of 170°W longitude up to the U.S.-Russian Convention Line of 1867. Pacific Ocean perch in the Aleutian Islands is allocated under the Amendment 80 catch share program to the trawl gear sectors. Northern rockfish, rougheye rockfish, shortraker rockfish, and other rockfish do not have directed fisheries but are caught incidentally in other fisheries. There are currently an estimated 28 vessels licensed in this fishery.

Summary of Changes to the LOF for 2013

The following summarizes changes to the LOF for 2013 in fishery classification, the estimated number of vessels/participants in a particular fishery, the species or stocks that are incidentally killed or injured in a particular fishery, and the fisheries that are subject to a take reduction plan. The classifications and definitions of U.S. commercial fisheries for 2013 are identical to those provided in the LOF for 2012 with the proposed changes discussed below. State and regional abbreviations used in the following paragraphs include: AK (Alaska), CA (California), DE (Delaware), FL (Florida), GMX (Gulf of Mexico), HI (Hawaii), MA (Massachusetts), ME (Maine), NC (North Carolina), NY (New York), OR (Oregon), RI (Rhode Island), SC (South Carolina), VA (Virginia), WA (Washington), and WNA (Western North Atlantic).

Commercial Fisheries in the Pacific Ocean

Fishery Classification

CA Thresher Shark/Swordfish Drift Gillnet Fishery

NMFS proposes to reclassify the ''CA thresher shark/swordfish drift gillnet'' fishery from Category II to Category I. NMFS has observed this fishery from 2005 through 2010 at coverage levels ranging from 11.9% to 20.9%. NMFS reclassified this fishery from Category III to Category II on the 2012 LOF (76 FR 73912; November 29, 2011).

In 2010, two sperm whales likely from the CA/OR/WA stock were observed entangled in this fishery (one dead and one seriously injured), which resulted in a bycatch estimate of 16 sperm whales in 2010. There were no observed sperm whale entanglements in the ''CA thresher shark/swordfish drift gillnet'' during the prior four years (2006 through 2009). These were the first observed entanglements of sperm whales in the ''CA thresher shark/swordfish drift gillnet'' fishery since 1998. Based on the most recent five years of available information, the average serious injury/mortality of the CA/OR/WA stock of sperm whales in this fishery is 3.2 per year, which is greater than 213% of the PBR level of 1.5. Therefore, reclassification of the ''CA thresher shark/swordfish drift gillnet'' fishery to Category I is appropriate under 50 CFR 229.2. This fishery is currently observed under the authority of the MMPA (50 CFR 229.4(h)) and the Highly Migratory Species FMP (50 CFR 660.719) and must comply with Pacific Offshore Cetacean TRP regulations (50 CFR 229.31).

Bering Sea and Aleutian Islands Rockfish Trawl Fishery

NMFS proposes to reclassify the ''Alaska Bering Sea and Aleutian Islands Rockfish trawl'' fishery from Category III to Category II based on an observed mortality of a killer whale (Gulf of Alaska, Aleutian Islands, Bering Sea transient stock). Although extrapolated data estimating actual marine mammal

serious injury and mortalities are available in the draft 2012 Alaska Stock Assessment Reports, observed serious injury/mortality was used in the 2013 LOF tier analysis for this fishery. The analytical methods for extrapolating estimated serious injury and mortality from observed data have undergone further review and revision subsequent to the draft SAR publication; a NOAA Technical Memorandum containing a description of the methodology is expected in spring 2013. The revised methods will be applied to the analysis that will form the basis for the 2014 LOF recommendations. Serious injury/mortality to one killer whale from either the North Pacific Alaska resident stock or the Gulf of Alaska, Aleutian Islands, Bering Sea transient stock caused by the fishery occurred between 2007 and 2010. The mean observed annual mortality for the 2007–2010 period for killer whales (Gulf of Alaska, Aleutian Islands, Bering Sea transient stock) caused by this fishery is 0.25, and overall observed mean annual mortality across all fisheries is 1.25. The PBR for this stock is 5.5. Serious injury/mortality for the stock across all fisheries is greater than 10% of PBR (0.55), and serious injury/mortality caused by this fishery is between 1% and 50% of PBR (.055 to 2.25). Therefore, serious injury/mortality of this stock drives the fishery's proposed Category II classification, and NMFS proposes to add a superscript ''[1]'' to denote this in Table 1.

Alaska Bering Sea/Aleutian Islands Pacific Cod Longline Fishery

NMFS proposes to reclassify the ''Alaska Bering Sea/Aleutian Islands Pacific cod longline'' fishery from Category II to Category III. Category II classification for this fishery was driven by serious injury/mortality to killer whales (Alaska Resident stock) documented in 2003. The fishery was originally classified in Category II in the 2005 LOF after NMFS determined the fishery caused serious injury/mortality of killer whales (Eastern North Pacific resident stock) at 0.8 animals per year, or 11.11% of the stock's PBR level of 7.2.

Based on the most recent available information, there have been no serious injuries or mortalities of killer whales (Alaska Resident stock) in the fishery since 2003. Therefore, NMFS proposes to reclassify this fishery as Category III.

Alaska Bering Sea Sablefish Pot Fishery

NMFS proposes to reclassify the ''Alaska Bering Sea sablefish pot fishery'' from Category II to Category III. Category II classification for this fishery was driven by serious injury/mortality of humpback whales (Central North Pacific and Western North Pacific stock). The fishery was reclassified to Category II in the 2005 LOF based on interactions with humpback whales documented in 2002. Estimated serious injury and mortality of humpback whales (Central North Pacific stock) at that time was 0.2 animals per year, or 2.7% of PBR (PBR=7.4). Estimated serious injury and mortality of humpback whales (Western North Pacific stock) was 0.2 animals per year, or 28.57% of PBR (2005 PBR=0.7).

No serious injuries or mortalities to these stocks or to any other marine mammal stocks by the Bering Sea sablefish pot fishery have been documented since 2002. Therefore, NMFS proposes to place this fishery in Category III.

Hawaii Charter Vessel and Hawaii Trolling, Rod and Reel Fisheries

In the proposed 2012 LOF, NMFS proposed elevating the ''Hawaii charter vessel'' and ''Hawaii trolling, rod and reel'' fisheries from Category III to Category II on the basis of the fisheries' interactions with Pantropical spotted dolphins. In the Final 2012 LOF, NMFS concluded that insufficient information existed to support a reclassification and that the agency would reconsider elevating these fisheries in the 2013 LOF. NMFS has reviewed the most recent information and determined that the ''Hawaii charter vessel'' and ''Hawaii trolling, rod and reel'' fisheries should remain classified as Category III fisheries.

NMFS Pacific Islands Regional Office is engaging in an ongoing effort with the State of Hawaii's Department of Land and Natural Resources to examine existing fisheries data, and researchers are gathering more information on fishing behavior around Pantropical spotted dolphins. Based on the most current information available, NMFS has again considered whether serious injury or mortality of Pantropical spotted dolphins in the fisheries is ''occasional'' or a ''remote likelihood.'' The regulatory definition of a Category II commercial fishery is one that, collectively with other fisheries, is responsible for the annual removal of more than 10% of any marine mammal stock's PBR level, and that is by itself responsible for the annual removal of between 1% and 50%, exclusive, of any stock's PBR level (50 CFR 229.2). The Final 2011 SAR and more recent bycatch estimates indicate no serious injuries or mortalities of Pantropical spotted dolphins observed in the Hawaii-based longline fisheries within the U.S. Exclusive Economic Zone (EEZ) (Carretta *et al.,* 2012b; McCracken, 2011). The SAR reports no other sources of recent mortalities except anecdotal reports of hookings in the troll fisheries (Carretta *et al.,* 2012b).

Current information does not suggest that total commercial fishery-related mortality and serious injury of the stock exceeds 10% of the PBR of 61 (i.e., 6.1 serious injuries or mortalities per year). NMFS bases this conclusion on the following:

(1) The lack of mortality/serious injury reports in the Final 2011 SARs and recent bycatch estimates;

(2) The reportedly small number of participants in the troll and charter fisheries who opportunistically fish in close proximity to spotted dolphin groups;

(3) The limited geographic and temporal scope of dolphin groups that are known to associate with tuna in Hawaiian waters and fished by local trollers;

(4) The likelihood that some portion of that trolling effort around dolphins is recreational and would not count toward an estimation of risk that the commercial fisheries pose to the dolphins;

(5) The likelihood that not all interactions between dolphins and the troll fisheries are serious injuries, particularly if an animal is snagged in an appendage or in the body by a hook being dragged through the water. A hooking in the body or an appendage, though case specific, is more likely to be a non-serious injury than an ingested hook, according to NMFS policy for distinguishing serious from non-serious injury of marine mammals (*http://www.nmfs.noaa.gov/pr/laws/mmpa/policies.htm*);

(6) The lack of any direct evidence of serious injury or mortality of spotted dolphins in the troll and charter vessel fisheries; and

(7) The lack of any other identified sources of incidental mortality/serious injury of this stock of spotted dolphins. There have been no observed or estimated mortalities or serious injuries of spotted dolphins in the Hawaii-based longline fisheries within the U.S. EEZ around Hawaii since 2005, though there are an estimated 0.5 serious injuries or mortalities per year in the deep-set longline fishery on the high seas (Carretta *et al.,* 2012b; McCracken 2011).

The fishing technique of trolling in close proximity to groups of Pantropical spotted dolphins, where and when it occurs, presents a heightened risk to the marine mammals. However, this information alone does not provide sufficient evidence with which to

conclude that dolphins are being seriously injured or killed on an occasional basis as a result of these practices. In the absence of evidence of mortality/serious injury, NMFS concludes based on the available information that a Category III classification for the troll and charter fisheries is appropriate.

If new information suggests a level of fishery-related mortality/serious injury would, across all fisheries, exceed 10% of the stock's PBR level, NMFS will recommend appropriate action in future LOFs. Additionally, if the Hawaii pelagic stock of Pantropical spotted dolphins is split into several smaller stocks (with smaller PBRs) in a future SAR, we will reevaluate the impact of the fisheries on those smaller stocks.

Number of Vessels/Persons

NMFS proposes to update the estimated number of vessels/persons in the commercial fisheries in the Pacific Ocean (Table 1). Updates are based on state and federal fisheries permit data. The estimated number of vessels/persons participating in fisheries operating within U.S. waters is expressed in terms of the number of active participants in the fishery, when possible. If this information is not available, the estimated number of vessels or persons licensed for a particular fishery is provided. If no recent information is available on the number of participants, vessels, or persons licensed in a fishery, then the number from the most recent LOF is used for the estimated number of vessels/persons in the fishery. NMFS acknowledges that, in some cases, these estimations may be inflations of actual effort. However, in these cases, the numbers represent the potential effort for each fishery, given the multiple gear types several state permits may allow for.

NMFS proposes to update the estimated number of persons/vessels operating in the Pacific Ocean as follows:

Category	Fishery	Estimated number of participants (final 2012 LOF)	Estimated number of participants (proposed 2013 LOF)
I	HI deep-set (tuna target) longline/set line	124	129
II (proposed I)	CA thresher shark/swordfish drift gillnet	45	25
II	AK Bristol Bay Salmon drift gillnet	1862	1863
II	AK Bristol Bay salmon set gillnet	983	982
II	AK Cook Inlet salmon drift gillnet	571	569
II	AK Kodiak salmon purse seine	370	379
II (proposed III)	AK Bering Sea, Aleutian Islands Pacific cod longline	54	154
II	AK Peninsula/Aleutian Islands salmon set gillnet	115	114
II	AK Yakutat salmon set gillnet	166	167
II	HI shallow-set (swordfish target) longline/set line	28	20
II	American Samoa longline	26	24
II	HI shortline	13	11
II	AK Southeast salmon drift gillnet	476	474
III	AK Bering Sea, Aleutian Islands Greenland Turbot longline	29	36
III	AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet	824	1702
III	AK roe herring and food/bait herring gillnet	986	990
III	AK roe herring and food/bait purse seine	361	367
III	AK salmon purse seine (excluding salmon purse seine fisheries listed as Category II)	936	935
III	AK salmon troll	2045	2008
III	AK Gulf of Alaska Pacific cod longline	440	107
III	AK halibut longline/set line (State and Federal waters)	2521	2280
III	AK State-managed waters longline/setline (including sablefish, rockfish, lingcod, and miscellaneous finfish).	1448	1323
III	AK miscellaneous finfish otter/beam trawl	317	282
III	AK shrimp otter trawl and beam trawl (statewide and Cook Inlet)	32	33
III	AK statewide miscellaneous finfish pot	293	243
III	AK BSAI crab pot	297	296
III	AK Gulf of Alaska crab pot	300	389
III	AK southeast Alaska crab pot	433	415
III	AK Southeast Alaska shrimp pot	283	274
III	AK shrimp pot, except southeast	15	210
III	AK Octopus/squid pot	27	26
III	AK miscellaneous finfish handline/hand troll and mechanical jig	445	456
III	AK North Pacific halibut handline/hand troll and mechanical jig	228	180
III	AK herring spawn on kelp pound net	415	411
III	AK Southeast herring roe/food/bait pound net	6	4
III	AK urchin and other fish/shellfish	570	521
III	AK North Pacific halibut, AK bottom fish, WA/OR/CA albacore, groundfish, bottom fish, CA halibut non-salmonid troll fisheries.	1,302 (102 AK)	1,320 (120 AK)
III	HI inshore gillnet	44	36
III	HI opelu/akule net	16	22
III	HI inshore purse seine	5	< 3
III	HI throw net, cast net	22	29
III	HI hukilau net	27	26
III	HI lobster tangle net	1	0
III	American Samoa tuna troll	<50	7
III	HI trolling, rod and reel	2,191	1,560
III	Commonwealth of the Northern Mariana Islands tuna troll	88	40
III	Guam tuna troll	401	432
III	HI kaka line	24	17

Category	Fishery	Estimated number of participants (final 2012 LOF)	Estimated number of participants (proposed 2013 LOF)
III	HI vertical longline	10	9
III	HI crab trap	5	9
III	HI fish trap	13	9
III	HI lobster trap	1	<3
III	HI shrimp trap	2	4
III	HI crab net	5	6
III	HI Kona crab loop net	46	48
III	American Samoa bottomfish	<50	12
III	Commonwealth of the Northern Mariana Islands bottomfish	<50	28
III	Guam bottomfish	200	>300
III	HI aku boat, pole, and line	2	3
III	HI Main Hawaiian Islands deep-sea bottomfish handline	569	567
III	HI inshore handline	416	378
III	HI tuna handline	445	459
III	Western Pacific squid jig	6	1
III	HI bullpen trap	4	<3
III	HI black coral diving	1	<3
III	HI handpick	61	57
III	HI lobster diving	39	29
III	HI spearfishing	144	143

List of Species or Stocks Incidentally Killed or Injured in the Pacific Ocean

NMFS proposes to update the list of species or stocks incidentally killed or injured by fisheries in the Pacific Ocean (Table 1). The agency notes here that while only ''serious injuries'' and mortalities are used to categorize fisheries as Category I, II, or III, the list of species or stocks incidentally killed or injured includes stocks that have any documented injuries, including ''non-serious'' injuries. For information on how NMFS determines whether a particular injury is serious or non-serious, please see NMFS Instruction 02–038–01, ''Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals'' (*http://www.nmfs.noaa.gov/pr/laws/mmpa/policies.htm*). NMFS proposes the following updates:

NMFS proposes to add sperm whales (CA/OR/WA stock) and bottlenose dolphins (CA/OR/WA offshore stock) to the list of species/stocks incidentally killed or injured in the ''CA thresher shark/swordfish drift gillnet'' fishery. NMFS further proposes adding a superscript ''1'' after sperm whale (CA/OR/WA stock), indicating that this stock is a driver for the Category I classification of the fishery. NMFS also proposes to remove the superscript ''1'' from the humpback whale (CA/OR/WA stock), because while that stock was driving a Category II classification, levels of serious injury/mortality to that stock are not high enough to drive the proposed Category I classification for that fishery.

NMFS proposes to add bottlenose dolphins (CA/OR/WA offshore stock) to the list of species taken in the ''WA/OR/CA groundfish, bottomfish longline/set line'' fishery based on a 2009 observer report of an entangled bottlenose dolphin attributed to the CA/OR/WA offshore stock in the Category III ''WA/OR/CA groundfish, bottomfish longline/set line'' fishery. The dolphin was entangled in a buoy line, cut free from the gear, released alive, and swam away with cuts on its tail. This report has not yet appeared in the Pacific Marine Mammal SARs.

NMFS proposes to add short-finned pilot whales (Hawaiian stock), to the list of species or stocks incidentally killed or injured in the ''HI shallow-set (swordfish target) longline'' fishery. The Final 2011 SAR reports no observed injuries or mortalities of short-finned pilot whales in the fishery from 2004–2008, but one serious injury of an unidentified cetacean (a ''blackfish'') on the high seas in 2008 that may have been a short-finned pilot whale (Carretta *et al.,* 2012b). A more recent analysis uses a model to prorate blackfish interactions to short-finned pilot whale and false killer whale stocks (see model details in McCracken, 2010). That analysis resulted in a revised estimate of 0.1 short-finned pilot whale mortalities and serious injuries per year in the shallow-set longline fishery for the period 2006–2010 (McCracken, 2011). The fishery has 100% observer coverage.

NMFS proposes to remove Bryde's whales (Hawaiian stock), from the list of species or stocks incidentally killed or injured in the ''Hawaii shallow-set (swordfish target) longline'' fishery. The Final 2011 SAR reported one non-serious injury of a Bryde's whale in the fishery in 2005 (Carretta *et al.,* 2012b). However, more recent data indicate that no Bryde's whales have been injured or killed in the fishery in the last five years (McCracken, 2011). Therefore, NMFS proposes to delete the stock from the list of marine mammals incidentally injured or killed by the fishery. The fishery has 100% observer coverage.

In the ''HI shallow-set (swordfish target) longline'' fishery, NMFS proposes to add a superscript ''1'' following false killer whale (Hawaii pelagic stock), to indicate the stock is driving the fishery's Category II classification. The fishery has 100% observer coverage. This determination was made based on analysis of the draft 2012 SAR (Carretta *et al.,* 2012a). In the tier 1-analysis, NMFS finds that the total of average annual mortalities and serious injuries for this stock across all fisheries within the U.S. EEZ around Hawaii is 13.8 (Carretta *et al.,* 2012a). False killer whales (Hawaii pelagic stock) have a PBR of 9.1. Thus, annual mortality and serious injury is 151.6% of PBR, exceeding 10% of PBR. In the tier-2 analysis, the shallow-set longline fishery has an average annual serious injury/mortality rate of 0.2 (Carretta *et al.,* 2012a). This is 2.2% of the 9.1 PBR level, between 1% and 50% of PBR. Therefore, the stock is a driver of the fishery's Category II classification.

The ''Hawaii shallow-set (swordfish target) longline'' fishery was previously classified as Category II based on mortalities and serious injuries of bottlenose dolphin (Hawaii pelagic

stock). Review of the most recent information indicates that, across all U.S. fisheries within the U.S. EEZ, total mortalities and serious injuries of this stock (0.4 per year) do not exceed 10% of its PBR of 18 (Carretta *et al.,* 2012b). NMFS proposes to remove the superscript ''[1]'' following bottlenose dolphin (Hawaii pelagic stock), to indicate the stock is no longer driving the fishery's Category II classification. However, as discussed above, because recent data analyzed for the 2013 LOF indicate that false killer whales (Hawaii pelagic stock) are seriously injured or killed by this fishery at a Category II level, the fishery remains classified as Category II.

NMFS proposes to remove humpback whales (Central North Pacific stock) from the list of species or stocks incidentally killed or injured in the ''Hawaii deep-set (tuna target) longline'' fishery. Though the fishery has had non-serious injuries of this stock in the past (one each in 2001, 2002, and 2004), the most recent five-year period for which information is readily available indicates that the fishery caused no documented injuries or deaths to this stock during this period (Forney, 2010; McCracken, 2011; Allen and Angliss, 2012a; Allen and Angliss, 2012b). The fishery has approximately 20% observer coverage. Therefore, NMFS proposes to delete the stock from the list of marine mammals incidentally injured or killed by the fishery.

NMFS proposes to remove Blainville's beaked whales (Hawaiian stock), from the list of species or stocks incidentally killed or injured in the ''Hawaii deep-set (tuna target) longline'' fishery. The most recent five-year period for which information is readily available indicates that the fishery caused no documented injuries or deaths to Blainville's beaked whales during this period (McCracken, 2011). Therefore, NMFS proposes to delete the stock from the list of marine mammals incidentally injured or killed by the fishery. The fishery has approximately 20% observer coverage.

NMFS proposes to add pantropical spotted dolphins (Hawaii stock) to the list of species or stocks incidentally injured or killed in the Category III ''Hawaii trolling, rod and reel'' and ''Hawaii charter vessel'' fisheries. As noted in the discussion above regarding the ''Hawaii trolling, rod and reel'' and ''Hawaii charter vessel'' fisheries classification, available information indicates that pantropical spotted dolphins are incidentally injured in these fisheries at low levels. There is no observer coverage in these fisheries. NMFS notes here, again, that while classification of a fishery in Category I, II, or III under the MMPA requires evidence of ''serious injury or mortality,'' the list of species or stocks incidentally injured or killed requires only evidence of ''injury,'' a term that includes non-serious injuries. While NMFS does not propose to reclassify these fisheries, the agency finds that sufficient evidence exists to list the Pantropical spotted dolphin as an incidentally injured stock in these fisheries.

NMFS proposes several changes to the list of marine mammal stocks incidentally killed or injured in the Category II ''Alaska Bering Sea and Aleutian Islands Flatfish trawl'' fishery. First, NMFS proposes to add gray whales (Eastern North Pacific stock) to the list of incidentally injured or killed stocks. Serious injury/mortality to a gray whale in this fishery was documented in 2010. Second, NMFS proposes to add humpback whales (Western North Pacific stock) to the list of species or stocks incidentally injured or killed by this fishery. Serious injury/mortality to a humpback whale by this fishery was documented in 2010. Mean annual serious injury/mortality for the 2007–2010 period for humpback whales (Western North Pacific stock) caused by this fishery is 0.25, and overall mean annual serious injury/mortality across all fisheries is 0.62. The PBR for this stock is 2.6. Serious injury/mortality for this stock across all fisheries is greater than 10 percent of PBR (0.26). Serious injury/mortality caused by this fishery is between 1 percent and 50 percent of PBR (0.026 to 1.3). Therefore, serious injury/mortality of this stock is a driver of the fishery's existing Category II classification and NMFS proposes to add a superscript ''[1]'' to denote this in Table 1. Third, NMFS proposes to add killer whales (Gulf of Alaska, Aleutian Islands, and Bering Sea transient stock) to the list of incidentally injured or killed stocks. Serious injury/mortality to a killer whale was documented in 2008 and 2009. Mean annual serious injury/mortality for the 2007–2010 period for killer whales caused by this fishery is 0.75, and overall mean annual serious injury/mortality across all fisheries is 1.37. The PBR for this stock is 5.5. Serious injury/mortality for the stocks across all fisheries is greater than 10 percent of PBR (.55), and serious injury/mortality caused by this fishery is between 1 percent and 50 percent of PBR (.055 to 2.25). Therefore, serious injury/mortality of this stock drives the fishery's Category II classification, and NMFS proposes to add a superscript ''[1]'' to denote this in Table 1. Fourth, NMFS proposes to add ringed seals (Alaska stock) to the list of stocks incidentally injured or killed by the fishery. Serious injury/mortality to ringed seals was documented in 2008 and 2009.

NMFS proposes several changes to the list of marine mammal stocks incidentally killed or injured in the Category II ''Alaska Bering Sea and Aleutian Islands Pollock trawl'' fishery. First, NMFS proposes to add ringed seals (Alaska stock) to the list of incidentally injured or killed stocks by this fishery. Serious injury/mortality to ringed seals was documented in 2008 and 2009 in this fishery. Second, NMFS proposes to add bearded seals (Alaska stock) to the list of incidentally injured or killed stocks by this fishery. Injury/mortality to bearded seals was documented in 2007, 2008, 2009, and 2010. Third, NMFS proposes to add Northern fur seals (Eastern Pacific stock) to the list of incidentally injured or killed stocks by this fishery. Injury/mortality to fur seals was documented in 2007, 2008, and 2010. Fourth, NMFS proposes to remove killer whales (Eastern North Pacific, Gulf of Alaska, Aleutian Islands, and Bering Sea transient stock) from the list of incidentally injured or killed marine mammal stocks by this fishery. There have been no documented injuries or mortalities to killer whales by this fishery since 2003. Fifth, NMFS proposes to remove minke whales (Alaska stock) from the list of incidentally injured or killed marine mammal stocks by this fishery. There have been no documented injuries or mortalities to minke whales by this fishery since 2000.

NMFS proposes several changes to the list of marine mammal stocks incidentally injured or killed by the proposed Category III ''Alaska Bering Sea and Aleutian Islands Pacific Cod longline'' fishery. First, NMFS proposes to add Northern fur seals (eastern Pacific stock) to the list of species or stocks incidentally injured or killed by this fishery. Serious injury/mortality to Northern fur seals was documented in 2010. Second, NMFS proposes to add Dall's Porpoise (Alaska stock) to the list of marine mammal stocks incidentally injured or killed by the fishery. Serious injury/mortality to Dall's porpoise was documented in 2009. Third, NMFS proposes to remove Steller sea lions (Western United States stock) from the list of species or stocks incidentally injured or killed by this fishery. There have been no documented injuries or mortalities of Steller sea lions (Western United States stock) in this fishery since 2006. Fourth, NMFS proposes to remove ribbon seals (Alaska stock) from the list

of species or stocks incidentally injured or killed by this fishery. There have been no documented injuries or mortalities of ribbon seals (Alaska stock) in this fishery since 2001. Fifth, NMFS proposes to remove killer whales (Alaska Resident stock) from the list of species or stocks incidentally injured or killed by this fishery. There have been no documented injuries or mortalities of killer whales (Alaska Resident stock) in this fishery since 2000.

NMFS proposes to add Steller sea lions (Western United States stock) to the list of marine mammal stocks incidentally injured or killed by the Category III ''Gulf of Alaska Pacific Cod longline'' fishery. Serious injury/mortality to Steller sea lions (Western United States stock) by this fishery was documented in 2008 and 2010. Mean annual serious injury/mortality for the 2007–2010 period for Steller sea lions (Western United States stock) caused by this fishery is 4.4, and overall mean annual serious injury/mortality across all fisheries is 28.25. The PBR for this stock is 275. Serious injury/mortality for this stock across all fisheries is therefore slightly greater than 10 percent of PBR (27.5). While data from the SARs suggests serious injury/mortality caused by the fishery amounts to 1.6% of PBR, more recent results using updated methodologies for estimating total actual serious injury/mortality indicate serious injury/mortality is substantially less than 1% of PBR. Therefore, NMFS proposes to add the stock to the list of marine mammal stocks incidentally injured or killed by the fishery but not reclassify the fishery at this time. Therefore, the stock does not drive the fishery's classification.

NMFS proposes to remove Steller sea lions (Eastern United States stock) from the list of marine mammals incidentally injured or killed by the Category III ''Gulf of Alaska Sablefish longline'' fishery. There has been no documented injury/mortality of the stock in this fishery since 2000.

NMFS proposes to remove Steller sea lions (Eastern United States stock) from the list of marine mammals incidentally injured or killed by the Category III ''Alaska Halibut longline'' fishery. There has been no documented injury/mortality to the stock by this fishery since 1995.

NMFS proposes to add ribbon seal (Alaska stock) to the list of marine mammal stocks incidentally injured or killed by the Category III ''Atka Mackerel trawl'' fishery. Serious injury/mortality to ribbon seals (Alaska stock) in this fishery was documented in 2007 and 2009.

NMFS proposes to remove harbor seals (Bering Sea stock) from the list of marine mammals incidentally injured or killed by the Category III ''Bering Sea/Aleutian Islands Pacific Cod trawl'' fishery. There has been no documented injury or mortality to the stock by this fishery since 2004.

NMFS proposes to remove humpback whales (Western North Pacific stock) and (Central North Pacific stock) from the list of marine mammals incidentally injured or killed by the proposed Category III ''Alaska Bering Sea sablefish pot'' fishery. There have been no documented injuries or mortalities to these stocks by the fishery over the last five years.

Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean

Number of Vessels/Persons

NMFS proposes to update the estimated number of vessels/persons in the commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean (Table 2). Updates are based on state and federal fisheries permit data. The estimated number of vessels/persons participating in fisheries operating within U.S. waters is expressed in terms of the number of active participants in the fishery, when possible. If this information is not available, the estimated number of vessels or persons licensed for a particular fishery is provided. If no recent information is available on the number of participants, vessels, or persons licensed in a fishery, then the number from the most recent LOF is used for the estimated number of vessels/persons in the fishery. NMFS acknowledges that, in some cases, these estimations may be inflations of actual effort. However, in these cases, the numbers represent the potential effort for each fishery, given the multiple gear types several state permits may allow.

NMFS proposes the following updates to the estimated number of vessels/persons in commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean.

Category	Fishery	Estimated number of participants (final 2012 LOF)	Estimated number of participants (proposed 2013 LOF)
I	Atlantic Ocean, Caribbean, Gulf of Mexico large pelagic longline	94	420
I	Northeast Sink Gillnet	3,828	4,375
I	Mid Atlantic Gillnet	6,402	5,509
I	Northeast/Mid Atlantic American Lobster Trap/Pot	11,767	11,693
II	North Carolina inshore gillnet	2,250	1,323
II	Southeast Atlantic gillnet	779	357
II	Atlantic blue crab trap/pot	10,008	8,557
II	Northeast Anchored Float Gillnet	414	421
II	Northeast Mid Water Trawl (including pair trawl)	887	1,103
II	Mid Atlantic Mid Water Trawl (including pair trawl and flynet)	669	322
II	Mid Atlantic Beach Haul Seine	874	565
II	Northeast Bottom Trawl	2,584	2,987
II	Virginia Pound Net	231	67
II	Northeast Drift Gillnet	414	311
II	Atlantic Mixed Species Trap/Pot	3,526	3,467
II	Mid Atlantic Bottom Trawl	1,388	631
II	Chesapeake Bay Inshore Gillnet	3,328	1,126
II	Mid Atlantic Menhaden Purse Seine	56	5
III	Atlantic Shellfish Bottom Trawl	>86	>58
III	Gulf of Maine Atlantic Herring Purse Seine	>6	>7
III	Northeast, Mid-Atlantic Bottom Longline/Hook & Line	>1,281	>1,207
III	Gulf of Maine, U.S. Mid-Atlantic Sea Scallop Dredge	>230	>403
III	Gulf of Maine herring and Atlantic mackerel stop seine/weir	Unknown	>1
III	Gulf of Maine, U.S. Mid-Atlantic tuna, shark swordfish hook-and-line/harpoon	>403	428

List of Species or Stocks Incidentally Killed or Injured

NMFS proposes the following additions and deletions from the list of marine mammal species and stocks incidentally killed or injured in commercial fisheries in the Atlantic, Gulf of Mexico, and Caribbean found in Table 2 of the LOF. These additions and deletions are based on information contained in the U.S. Atlantic and Gulf of Mexico Marine Mammal Stock Assessments, strandings data, and/or observer data. The agency notes here that while only ''serious injuries'' and mortalities are used to categorize fisheries as Category I, II, or III, the list of species or stocks incidentally killed or injured includes stocks that have any documented injuries, including ''non-serious'' injuries. For information on how NMFS determines whether a particular injury is serious or non-serious, please see NMFS Instruction 02–038–01, ''Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals'' (*http://www.nmfs.noaa.gov/pr/laws/mmpa/policies.htm*). NMFS proposes the following updates:

NMFS proposes two changes to the ''Atlantic Ocean, Caribbean, Gulf of Mexico large pelagic longline'' fishery. NMFS proposes to remove bottlenose dolphin (Northern Gulf of Mexico continental shelf stock) and to remove Gervais beaked whales (Gulf of Mexico oceanic stock) from the list of marine mammal stocks incidentally injured or killed in the fishery. There have been no documented injuries or mortalities of the stocks in this fishery over the last five years.

NMFS proposes to remove bottlenose dolphin (Eastern Gulf of Mexico coastal stock) from the list of marine mammal stocks incidentally injured or killed in the ''Gulf of Mexico gillnet'' fishery. There have been no documented injuries or mortalities of the stock in this fishery over the last five years. Additionally, this stock's distribution and fishery effort no longer overlap.

NMFS proposes to remove Atlantic spotted dolphins (Western North Atlantic stock) from the list of marine mammal stocks incidentally injured or killed in the ''Southeastern U.S. Atlantic shark gillnet'' fishery. There have been no documented injuries or mortalities to the stock by this fishery over the last five years.

NMFS proposes to remove bottlenose dolphins (Eastern Gulf of Mexico coastal stock) from the list of marine mammal stocks incidentally injured or killed in the ''Gulf of Mexico menhaden purse seine'' fishery. There have been no documented injuries or mortalities to the stock by this fishery over the last five years. Additionally, this stock's distribution and fishery effort no longer overlap.

NMFS proposes to remove dwarf sperm whales (Western North Atlantic stock) from the list of marine mammal stocks incidentally injured or killed in the ''Caribbean gillnet'' fishery. There have been no documented injuries or mortalities to the stock by this fishery over the last five years.

NMFS proposes to add bottlenose dolphin (Southern South Carolina/Georgia coastal stock) to the ''Georgia cannonball jellyfish trawl'' fishery based on observed mortalities in April 2011 and March 2012. The potential biological removal level and the total annual human-caused mortality and serious injury for this stock is currently unknown (Waring *et al.* 2012).

NMFS proposes to add minke whales (Canadian East Coast stock) to the list of species incidentally killed or injured in the Category II ''Northeast bottom trawl'' fishery based on observed mortalities of minke whales reported in 2004 (one animal) and 2008 (two animals).

NMFS proposes to add Risso's dolphins (Western North Atlantic stock) to the list of species incidentally killed or injured in the Category I ''Mid-Atlantic gillnet'' fishery. The 2006–2010 average annual mortality and serious injury estimate for this fishery is 6.4 animals per year (Waring *et al.* 2012b).

NMFS proposes to add long-finned pilot whales (Western North Atlantic stock) and short-finned pilot whales (Western North Atlantic stock) to the list of species incidentally killed or injured in the Category I ''Northeast sink gillnet'' fishery based on the observed take of one pilot whale (species unknown) in 2010. The average annual mortality and serious injury of pilot whales in this fishery is unknown at this time (Waring *et al.* 2012a).

NMFS proposes to add common dolphins (Western North Atlantic stock) to the list of species incidentally killed or injured in the Category II ''Northeast mid-water trawl'' fishery. Common dolphin mortality was observed in this fishery in 2010 (Waring *et al.* 2012b) and in 2012. An expanded annual mortality and serious injury estimate for this fishery has not yet been calculated (Waring *et al.* 2012b).

NMFS proposes to add gray seals (Western North Atlantic stock) to the list of species incidentally killed or injured in the Category II ''Northeast mid-water trawl'' fishery. One gray seal mortality was observed in this fishery in March 2012. An expanded annual mortality and injury rate for this fishery has not yet been generated (Waring *et al.* 2012b).

NMFS proposes to add gray seals (Western North Atlantic stock) to the list of species incidentally killed or injured in the Category II ''Mid-Atlantic bottom trawl'' fishery. Two gray seal mortalities were observed in July 2011. An expanded annual mortality and injury rate for this fishery has not yet been generated.

Commercial Fisheries on the High Seas

Number of Vessels/Persons

NMFS proposes to update the estimated number of HSFCA permits in multiple high seas fisheries for multiple gear types (Table 3). The proposed updated numbers of HSFCA permits reflect the current number of permits in the NMFS National Permit System database.

Category	High seas fishery	Number of HSFCA permits (final 2012 LOF)	Number of HSFCA permits (proposed 2013 LOF)
I	Atlantic Highly Migratory Species Longline	81	79
II	Atlantic HMS Drift Gillnet	1	2
II	Pacific HMS Drift Gillnet	3	4
II	Atlantic HMS Trawl	3	5
II	Western Pacific Pelagic Trawl	1	0
II	South Pacific Tuna Purse Seine	33	38
II	South Pacific Tuna Longline	11	10
II	Pacific HMS Handline/Pole and Line	30	40
II	South Pacific Albacore Handline/Pole and Line	8	7
II	Western Pacific Pelagic Handline/Pole and Line	8	6

Category	High seas fishery	Number of HSFCA permits (final 2012 LOF)	Number of HSFCA permits (proposed 2013 LOF)
II	Atlantic HMS Troll	7	5
II	South Pacific Albacore Troll	51	36
II	Western Pacific Pelagic Troll	32	22
III	Pacific HMS Longline	84	96
III	Pacific HMS Purse Seine	7	6
III	Pacific HMS Troll	258	263

List of Species or Stocks Incidentally Killed or Injured in High Seas Fisheries (Table 3)

NMFS proposes to update the list of species or stocks incidentally killed or injured by fisheries in High Seas Fisheries (provided in Table 3). The agency notes here that while only ''serious injuries'' and mortalities are used to categorize fisheries as Category I, II, or III, the list of species or stocks incidentally killed or injured includes stocks that have any documented injuries, including ''non-serious'' injuries. For information on how NMFS determines whether a particular injury is serious or non-serious, please see NMFS Instruction 02–038–01, ''Process for Distinguishing Serious from Non-Serious Injury of Marine Mammals'' (*http://www.nmfs.noaa.gov/pr/laws/mmpa/policies.htm*). NMFS proposes the following updates:

NMFS proposes to remove humpback whales (Central North Pacific stock) and Blainville's beaked whales (Hawaiian and unknown stocks) from the list of species and stocks incidentally killed or injured in the ''Western Pacific Pelagic (HI Deep-set component)'' fishery, to be consistent with the Table 1 recommendations above. As noted on the 2012 LOF, this high seas fishery is an extension/component of the existing ''Hawaii deep-set longline'' fishery operating within U.S. waters, listed on Table 1. The marine mammal species or stocks listed as killed or injured in the fishery on Table 3 have either been observed taken by the fishery on the high seas, or are included so that the list is identical to the list of species or stocks killed or injured in the U.S. waters component of the fishery (on Table 1) because the high seas component of the fishery poses the same risk to marine mammals as the component operating in U.S. waters. Thus, NMFS proposes to remove these stocks from the list of species/stocks injured or killed in the high seas component of the fishery, to be consistent with the list of species/stocks in the U.S. waters component of the fishery.

NMFS proposes to remove Bryde's whales (Hawaiian and unknown stocks) and add short-finned pilot whales (Hawaiian and unknown stocks) to the list of species and stocks incidentally killed or injured in the ''Western Pacific Pelagic (HI Shallow-set component)'' fishery, to be consistent with the Table 1 recommendations above. As noted on the 2012 LOF, this high seas fishery is an extension/component of the existing ''Hawaii shallow-set longline'' fishery operating within U.S. waters, listed on Table 1. The marine mammal species or stocks listed as killed or injured in the fishery on Table 3 have either been observed taken by the fishery on the high seas, or are included so that the list is identical to the list of species or stocks killed or injured in the U.S. waters component of the fishery (on Table 1), because the high seas component of the fishery poses the same risk to marine mammals as the component operating in U.S. waters. Additionally, as noted in the 2012 LOF, NMFS included ''unknown'' stocks of the species observed taken on the high seas to acknowledge that, since stock boundaries are undefined on the high seas, the fishery may be interacting with unknown, undefined stocks beyond the range of the Hawaii pelagic stocks. Therefore, NMFS proposes to remove Bryde's whales (Hawaiian and unknown stocks) and add short-finned pilot whales (Hawaiian and unknown stocks) to the list of species/stocks injured or killed in the high seas component of the fishery to be consistent with the list of species/stocks injured or killed in the U.S. waters component of the fishery.

Fisheries Affected by Take Reduction Teams and Plans

NMFS proposes to update the list of fisheries affected by take reduction teams and plans found in Table 4 of the LOF.

In the Atlantic, Gulf of Mexico, and Caribbean region, two updates are proposed: The Atlantic portion of the ''Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl fishery'' is subject to the Bottlenose Dolphin Take Reduction Plan (BDTRP), and the ''Chesapeake Bay inshore gillnet fishery'' is also subject to the BDTRP. The ''Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl fishery'' was reclassified to Category II in the 2011 LOF. The Atlantic portion of this fishery is known to interact with the Bottlenose dolphin, South Carolina/Georgia coastal stock. This stock is strategic and managed under the BDTRP. For that reason, this fishery will be included within the scope of the BDTRP. The ''Chesapeake Bay inshore gillnet fishery'' utilizes a gear type that is known to cause serious injury and mortality to bottlenose dolphins. This fishery has the potential for interacting with three bottlenose dolphin stocks (Southern migratory coastal, Northern migratory coastal, and Northern North Carolina estuarine) managed under the BDTRP. For these reasons, this fishery will be included within the scope of the BDTRP.

In the Pacific Ocean region, the False Killer Whale Take Reduction Plan final rule and implementing regulations were published in the **Federal Register** on November 29, 2012 (77 FR 71260). Therefore, NMFS proposes to add ''False Killer Whale Take Reduction Plan (FKWTRP)—50 CFR 229.37'' to the list of take reduction plans. Affected fisheries include the Category I ''Hawaii deep-set (tuna target) longline/set line'' and Category II ''Hawaii shallow-set (swordfish target) longline/set line'' fisheries.

List of Fisheries

The following tables set forth the proposed list of U.S. commercial fisheries according to their classification under section 118 of the MMPA. Table 1 lists commercial fisheries in the Pacific Ocean (including Alaska); Table 2 lists commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean; Table 3 lists commercial fisheries on the high seas; and Table 4 lists fisheries affected by TRPs or TRTs.

In Tables 1 and 2, the estimated number of vessels/persons participating in fisheries operating within U.S. waters is expressed in terms of the number of active participants in the fishery, when

possible. If this information is not available, the estimated number of vessels or persons licensed for a particular fishery is provided. If no recent information is available on the number of participants, vessels, or persons licensed in a fishery, then the number from the most recent LOF is used for the estimated number of vessels/persons in the fishery. NMFS acknowledges that, in some cases, these estimations may be inflations of actual effort, such as for many of the Mid-Atlantic and New England fisheries. However, in these cases, the numbers represent the potential effort for each fishery, given the multiple gear types several state permits may allow for. Changes made to Mid-Atlantic and New England fishery participants will not affect observer coverage or bycatch estimates as observer coverage and bycatch estimates are based on vessel trip reports and landings data. Table 1 and 2 serve to provide a description of the fishery's potential effort (state and Federal). If NMFS is able to extract more accurate information on the gear types used by state permit holders in the future, the numbers will be updated to reflect this change. For additional information on fishing effort in fisheries found on Table 1 or 2, NMFS refers the reader to contact the relevant regional office (contact information included above in **SUPPLEMENTARY INFORMATION**).

For high seas fisheries, Table 3 lists the number of currently valid HSFCA permits held. Although this likely overestimates the number of active participants in many of these fisheries, the number of valid HSFCA permits is the most reliable data on the potential effort in high seas fisheries at this time.

Tables 1, 2, and 3 also list the marine mammal species or stocks incidentally killed or injured in each fishery based on observer data, logbook data, stranding reports, disentanglement network data, and MMAP reports. This list includes all species or stocks known to be injured or killed in a given fishery but also includes species or stocks for which there are anecdotal records of an injury or mortality. Additionally, species identified by logbook entries, stranding data, or fishermen self-reports (i.e., MMAP reports) may not be verified. In Tables 1 and 2, NMFS has designated those stocks driving a fishery's classification (i.e., the fishery is classified based on serious injuries and mortalities of a marine mammal stock that are greater than 50 percent [Category I], or greater than 1 percent and less than 50 percent [Category II], of a stock's PBR) by a ''[1]'' after the stock's name.

In Tables 1 and 2, there are several fisheries classified as Category II that have no recent documented injuries or mortalities of marine mammals, or fisheries that did not result in a serious injury or mortality rate greater than 1 percent of a stock's PBR level based on known interactions. NMFS has classified these fisheries by analogy to other Category I or II fisheries that use similar fishing techniques or gear that are known to cause mortality or serious injury of marine mammals, as discussed in the final LOF for 1996 (60 FR 67063, December 28, 1995), and according to factors listed in the definition of a ''Category II fishery'' in 50 CFR 229.2 (i.e., fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, and the species and distribution of marine mammals in the area). NMFS has designated those fisheries listed by analogy in Tables 1 and 2 by a ''[2]'' after the fishery's name.

There are several fisheries in Tables 1, 2, and 3 in which a portion of the fishing vessels cross the EEZ boundary and therefore operate both within U.S. waters and on the high seas. These fisheries, though listed separately between Table 1 or 2 and Table 3, are considered the same fishery on either side of the EEZ boundary. NMFS has designated those fisheries in each table by a ''*'' after the fishery's name.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
CATEGORY I		
LONGLINE/SET LINE FISHERIES:		
HI deep-set (tuna target) longline/set line *^	129	Bottlenose dolphin, HI Pelagic. False killer whale, HI Insular.[1] False killer whale, HI Pelagic.[1] False killer whale, Palmyra Atoll. Pantropical spotted dolphin, HI. Risso's dolphin, HI. Short-finned pilot whale, HI. Striped dolphin, HI.
GILLNET FISHERIES:		
CA thresher shark/swordfish drift gillnet (≥14 in mesh) *	25	Bottlenose dolphin, CA/OR/WA offshore. California sea lion, U.S. Humpback whale, CA/OR/WA. Long-beaked common dolphin, CA. Northern elephant seal, CA breeding. Northern right-whale dolphin, CA/OR/WA. Pacific white-sided dolphin, CA/OR/WA. Risso's dolphin, CA/OR/WA. Short-beaked common dolphin, CA/OR/WA. Sperm Whale, CA/OR/WA.[1]
CATEGORY II		
GILLNET FISHERIES:		
CA halibut/white seabass and other species set gillnet (>3.5 in mesh).	50	California sea lion, U.S. Harbor seal, CA. Humpback whale, CA/OR/WA.[1] Long-beaked common dolphin, CA.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
		Northern elephant seal, CA breeding.
		Sea otter, CA.
		Short-beaked common dolphin, CA/OR/WA.
CA yellowtail, barracuda, and white seabass drift gillnet (mesh size ≥3.5 in and <14 in)[2].	30	California sea lion, U.S.
		Long-beaked common dolphin, CA.
		Short-beaked common dolphin, CA/OR/WA.
AK Bristol Bay salmon drift gillnet[2]	1,863	Beluga whale, Bristol Bay.
		Gray whale, Eastern North Pacific.
		Harbor seal, Bering Sea.
		Northern fur seal, Eastern Pacific.
		Pacific white-sided dolphin, North Pacific.
		Spotted seal, AK.
		Steller sea lion, Western U.S.
AK Bristol Bay salmon set gillnet[2]	982	Beluga whale, Bristol Bay.
		Gray whale, Eastern North Pacific.
		Harbor seal, Bering Sea.
		Northern fur seal, Eastern Pacific.
		Spotted seal, AK.
AK Kodiak salmon set gillnet	188	Harbor porpoise, GOA.[1]
		Harbor seal, GOA.
		Sea otter, Southwest AK.
		Steller sea lion, Western U.S.
AK Cook Inlet salmon set gillnet	738	Beluga whale, Cook Inlet.
		Dall's porpoise, AK.
		Harbor porpoise, GOA.
		Harbor seal, GOA.
		Humpback whale, Central North Pacific.[1]
		Steller sea lion, Western U.S.
AK Cook Inlet salmon drift gillnet	569	Beluga whale, Cook Inlet.
		Dall's porpoise, AK.
		Harbor porpoise, GOA.[1]
		Harbor seal, GOA.
		Steller sea lion, Western U.S.
AK Peninsula/Aleutian Islands salmon drift gillnet[2]	162	Dall's porpoise, AK.
		Harbor porpoise, GOA.
		Harbor seal, GOA.
		Northern fur seal, Eastern Pacific.
AK Peninsula/Aleutian Islands salmon set gillnet[2]	114	Harbor porpoise, Bering Sea.
		Steller sea lion, Western U.S.
AK Prince William Sound salmon drift gillnet	537	Dall's porpoise, AK.
		Harbor porpoise, GOA.[1]
		Harbor seal, GOA.
		Northern fur seal, Eastern Pacific.
		Pacific white-sided dolphin, North Pacific.
		Sea otter, South Central AK.
		Steller sea lion, Western U.S.[1]
AK Southeast salmon drift gillnet	474	Dall's porpoise, AK.
		Harbor porpoise, Southeast AK.
		Harbor seal, Southeast AK.
		Humpback whale, Central North Pacific.[1]
		Pacific white-sided dolphin, North Pacific.
		Steller sea lion, Eastern U.S.
AK Yakutat salmon set gillnet[2]	167	Gray whale, Eastern North Pacific.
		Harbor Porpoise, Southeastern AK.
		Harbor seal, Southeast AK.
		Humpback whale, Central North Pacific (Southeast AK).
WA Puget Sound Region salmon drift gillnet (includes all inland waters south of US-Canada border and eastward of the Bonilla-Tatoosh line-Treaty Indian fishing is excluded).	210	Dall's porpoise, CA/OR/WA.
		Harbor porpoise, inland WA.[1]
		Harbor seal, WA inland.
PURSE SEINE FISHERIES:		
AK Cook Inlet salmon purse seine	82	Humpback whale, Central North Pacific.[1]
AK Kodiak salmon purse seine	379	Humpback whale, Central North Pacific.[1]
TRAWL FISHERIES:		
AK Bering Sea, Aleutian Islands flatfish trawl	34	Bearded seal, AK.
		Gray whale, Eastern North Pacific.
		Harbor porpoise, Bering Sea.
		Harbor seal, Bering Sea.
		Humpback whale, Western North Pacific.[1]
		Killer whale, AK resident.[1]

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
AK Bering Sea, Aleutian Islands pollock trawl	95	Killer whale, GOA, AI, BS transient.[1] Northern fur seal, Eastern Pacific. Ringed seal, AK. Ribbon seal, AK. Spotted seal, AK. Steller sea lion, Western U.S.[1] Walrus, AK. Bearded Seal, AK. Dall's porpoise, AK. Harbor seal, AK. Humpback whale, Central North Pacific. Humpback whale, Western North Pacific. Northern fur seal, Eastern Pacific. Ribbon seal, AK. Ringed seal, AK. Spotted seal, AK. Steller sea lion, Western U.S.[1]
Bering Sea, Aleutian Islands rockfish trawl	28	Killer whale, ENP AK resident.[1] Killer whale, GOA, AI, BS transient [1]
POT, RING NET, AND TRAP FISHERIES:		
CA spot prawn pot	27	Gray whale, Eastern North Pacific. Humpback whale, CA/OR/WA.[1]
CA Dungeness crab pot	534	Gray whale, Eastern North Pacific. Humpback whale, CA/OR/WA.[1]
OR Dungeness crab pot	433	Gray whale, Eastern North Pacific. Humpback whale, CA/OR/WA [1]
WA/OR/CA sablefish pot	309	Humpback whale, CA/OR/WA.[1]
WA coastal Dungeness crab pot/trap	228	Gray whale, Eastern North Pacific. Humpback whale, CA/OR/WA.[1]
LONGLINE/SET LINE FISHERIES:		
HI shallow-set (swordfish target) longline/set line *^	20	Bottlenose dolphin, HI Pelagic. False killer whale, HI Pelagic.[1] Humpback whale, Central North Pacific. Kogia sp. whale (Pygmy or dwarf sperm whale), HI. Risso's dolphin, HI. Short-finned pilot whale, HI. Striped dolphin, HI.
American Samoa longline [2]	24	False killer whale, American Samoa. Rough-toothed dolphin, American Samoa.
HI shortline [2]	11	None documented.
CATEGORY III		
GILLNET FISHERIES:		
AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet.	1702	Harbor porpoise, Bering Sea.
AK miscellaneous finfish set gillnet	3	Steller sea lion, Western U.S.
AK Prince William Sound salmon set gillnet	30	Harbor seal, GOA. Steller sea lion, Western U.S.
AK roe herring and food/bait herring gillnet	990	None documented.
CA set gillnet (mesh size <3.5 in)	304	None documented.
HI inshore gillnet	36	Bottlenose dolphin, HI. Spinner dolphin, HI.
WA Grays Harbor salmon drift gillnet (excluding treaty Tribal fishing).	24	Harbor seal, OR/WA coast.
WA/OR herring, smelt, shad, sturgeon, bottom fish, mullet, perch, rockfish gillnet.	913	None documented.
WA/OR lower Columbia River (includes tributaries) drift gillnet.	110	California sea lion, U.S. Harbor seal, OR/WA coast.
WA Willapa Bay drift gillnet	82	Harbor seal, OR/WA coast. Northern elephant seal, CA breeding.
PURSE SEINE, BEACH SEINE, ROUND HAUL, THROW NET AND TANGLE NET FISHERIES:		
AK Southeast salmon purse seine	415	None documented in the most recent 5 years of data.
AK Metlakatla salmon purse seine	10	None documented.
AK miscellaneous finfish beach seine	1	None documented.
AK miscellaneous finfish purse seine	2	None documented.
AK octopus/squid purse seine	0	None documented.
AK roe herring and food/bait herring beach seine	6	None documented.
AK roe herring and food/bait herring purse seine	367	None documented.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
AK salmon beach seine	31	None documented.
AK salmon purse seine (excluding salmon purse seine fisheries listed as Category II).	935	Harbor seal, GOA.
CA anchovy, mackerel, sardine purse seine	65	California sea lion, U.S. Harbor seal, CA.
CA squid purse seine	80	Long-beaked common dolphin, CA. Short-beaked common dolphin, CA/OR/WA.
CA tuna purse seine*	10	None documented.
WA/OR sardine purse seine	42	None documented.
WA (all species) beach seine or drag seine	235	None documented.
WA/OR herring, smelt, squid purse seine or lampara	130	None documented.
WA salmon purse seine	440	None documented.
WA salmon reef net	53	None documented.
HI opelu/akule net	22	None documented.
HI inshore purse seine	<3	None documented.
HI throw net, cast net	29	None documented.
HI hukilau net	26	None documented.
HI lobster tangle net	0	None documented.
DIP NET FISHERIES:		
CA squid dip net	115	None documented.
WA/OR smelt, herring dip net	119	None documented.
MARINE AQUACULTURE FISHERIES:		
CA marine shellfish aquaculture	unknown	None documented.
CA salmon enhancement rearing pen	>1	None documented.
CA white seabass enhancement net pens	13	California sea lion, U.S.
HI offshore pen culture	2	None documented.
OR salmon ranch	1	None documented.
WA/OR salmon net pens	14	California sea lion, U.S. Harbor seal, WA inland waters.
TROLL FISHERIES:		
AK North Pacific halibut, AK bottom fish, WA/OR/CA albacore, groundfish, bottom fish, CA halibut non-salmonid troll fisheries.*	1,320 (120 AK)	None documented.
AK salmon troll	2,008	Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
American Samoa tuna troll	7	None documented.
CA/OR/WA salmon troll	4,300	None documented.
HI trolling, rod and reel	1,560	Pantropical spotted dolphin, HI
Commonwealth of the Northern Mariana Islands tuna troll.	40	None documented.
Guam tuna troll	432	None documented.
LONGLINE/SET LINE FISHERIES:		
AK Bering Sea, Aleutian Islands Pacific cod longline	154	Dall's Porpoise, AK. Northern fur seal, Eastern Pacific.
AK Bering Sea, Aleutian Islands rockfish longline	0	None documented.
AK Bering Sea, Aleutian Islands Greenland turbot longline.	36	Killer whale, AK resident.
AK Bering Sea, Aleutian Islands sablefish longline	28	None documented.
AK Gulf of Alaska halibut longline	1,302	None documented.
AK Gulf of Alaska Pacific cod longline	107	Steller sea lion, Western U.S.
AK Gulf of Alaska rockfish longline	0	None documented.
AK Gulf of Alaska sablefish longline	291	Sperm whale, North Pacific.
AK halibut longline/set line (State and Federal waters)	2,280	None documented in the most recent 5 years of data.
AK octopus/squid longline	2	None documented.
AK State-managed waters longline/setline (including sablefish, rockfish, lingcod, and miscellaneous finfish).	1,323	None documented.
WA/OR/CA groundfish, bottomfish longline/set line	367	Bottlenose dolphin, CA/OR/WA offshore.
WA/OR North Pacific halibut longline/set line	350	None documented.
CA pelagic longline	6	None documented in the most recent 5 years of data.
HI kaka line	17	None documented.
HI vertical longline	9	None documented.
TRAWL FISHERIES:		
AK Bering Sea, Aleutian Islands Atka mackerel trawl	9	Ribbon seal, AK. Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands Pacific cod trawl	93	Steller sea lion, Western U.S.
AK Gulf of Alaska flatfish trawl	41	Northern elephant seal, NP.
AK Gulf of Alaska Pacific cod trawl	62	Steller sea lion, Western U.S.
AK Gulf of Alaska pollock trawl	62	Dall's porpoise, AK. Fin whale, Northeast Pacific. Northern elephant seal, North Pacific.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
		Steller sea lion, Western U.S.
AK Gulf of Alaska rockfish trawl	34	None documented.
AK food/bait herring trawl	4	None documented.
AK miscellaneous finfish otter/beam trawl	282	None documented.
AK shrimp otter trawl and beam trawl (statewide and Cook Inlet).	33	None documented.
AK State-managed waters of Cook Inlet, Kachemak Bay, Prince William Sound, Southeast AK groundfish trawl.	2	None documented.
CA halibut bottom trawl	53	None documented.
WA/OR/CA shrimp trawl	300	None documented.
WA/OR/CA groundfish trawl	160–180	California sea lion, U.S. Dall's porpoise, CA/OR/WA. Harbor seal, OR/WA coast. Northern fur seal, Eastern Pacific. Pacific white-sided dolphin, CA/OR/WA. Steller sea lion, Eastern U.S.
POT, RING NET, AND TRAP FISHERIES:		
AK statewide miscellaneous finfish pot	243	None documented.
AK Aleutian Islands sablefish pot	8	None documented.
AK Bering Sea, Aleutian Islands Pacific cod pot	68	None documented.
AK Bering Sea, Aleutian Islands crab pot	296	None documented.
AK Bering Sea sablefish pot	6	None documented.
AK Gulf of Alaska crab pot	389	None documented.
AK Gulf of Alaska Pacific cod pot	154	Harbor seal, GOA.
AK Southeast Alaska crab pot	415	Humpback whale, Central North Pacific (Southeast AK).
AK Southeast Alaska shrimp pot	274	Humpback whale, Central North Pacific (Southeast AK).
AK shrimp pot, except Southeast	210	None documented.
AK octopus/squid pot	26	None documented.
AK snail pot	1	None documented.
CA coonstripe shrimp, rock crab, tanner crab pot or trap	305	Gray whale, Eastern North Pacific. Harbor seal, CA
CA spiny lobster	225	Gray whale, Eastern North Pacific.
OR/CA hagfish pot or trap	54	None documented.
WA/OR shrimp pot/trap	254	None documented.
WA Puget Sound Dungeness crab pot/trap	249	None documented.
HI crab trap	9	None documented.
HI fish trap	9	None documented.
HI lobster trap	<3	Hawaiian monk seal.
HI shrimp trap	4	None documented.
HI crab net	6	None documented.
HI Kona crab loop net	48	None documented.
HANDLINE AND JIG FISHERIES:		
AK miscellaneous finfish handline/hand troll and mechanical jig.	456	None documented.
AK North Pacific halibut handline/hand troll and mechanical jig.	180	None documented.
AK octopus/squid handline	0	None documented.
American Samoa bottomfish	12	None documented.
Commonwealth of the Northern Mariana Islands bottomfish.	28	None documented.
Guam bottomfish	>300	None documented.
HI aku boat, pole, and line	3	None documented.
HI Main Hawaiian Islands deep-sea bottomfish handline	567	Hawaiian monk seal.
HI inshore handline	378	None documented.
HI tuna handline	459	None documented.
WA groundfish, bottomfish jig	679	None documented.
Western Pacific squid jig	<3	None documented.
HARPOON FISHERIES:		
CA swordfish harpoon	30	None documented.
POUND NET/WEIR FISHERIES:		
AK herring spawn on kelp pound net	411	None documented.
AK Southeast herring roe/food/bait pound net	4	None documented.
WA herring brush weir	1	None documented.
HI bullpen trap	<3	None documented.
BAIT PENS:		
WA/OR/CA bait pens	13	California sea lion, U.S.
DREDGE FISHERIES:		
Coastwide scallop dredge	108 (12 AK)	None documented.
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
AK abalone	0	None documented.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
AK clam	156	None documented.
WA herring spawn on kelp	4	None documented.
AK Dungeness crab	2	None documented.
AK herring spawn on kelp	266	None documented.
AK urchin and other fish/shellfish	521	None documented.
CA abalone	0	None documented.
CA sea urchin	583	None documented.
HI black coral diving	<3	None documented.
HI fish pond	16	None documented.
HI handpick	57	None documented.
HI lobster diving	29	None documented.
HI spearfishing	143	None documented.
WA/CA kelp	4	None documented.
WA/OR sea urchin, other clam, octopus, oyster, sea cucumber, scallop, ghost shrimp hand, dive, or mechanical collection.	637	None documented.
WA shellfish aquaculture	684	None documented.
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		
AK/WA/OR/CA commercial passenger fishing vessel	>7,000 (2,702 AK)	Killer whale, stock unknown. Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
HI charter vessel	114	Pantropical spotted dolphin, HI.
LIVE FINFISH/SHELLFISH FISHERIES:		
CA nearshore finfish live trap/hook-and-line	93	None documented.

List of Abbreviations and Symbols Used in Table 1: AK—Alaska; CA—California; GOA—Gulf of Alaska; HI—Hawaii; OR—Oregon; WA—Washington; [1]Fishery classified based on serious injuries and mortalities of this stock, which are greater than 50 percent (Category I) or greater than 1 percent and less than 50 percent (Category II) of the stock's PBR; [2]Fishery classified by analogy; *Fishery has an associated high seas component listed in Table 3; ^ The list of marine mammal species or stocks killed or injured in this fishery is identical to the list of species or stocks killed or injured in high seas component of the fishery, minus species or stocks have geographic ranges exclusively on the high seas. The species or stocks are found, and the fishery remains the same, on both sides of the EEZ boundary. Therefore, the EEZ components of these fisheries pose the same risk to marine mammals as the components operating on the high seas.

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
CATEGORY I		
GILLNET FISHERIES:		
Mid-Atlantic gillnet	5,509	Bottlenose dolphin, Northern Migratory coastal.[1] Bottlenose dolphin, Southern Migratory coastal.[1] Bottlenose dolphin, Northern NC estuarine system.[1] Bottlenose dolphin, Southern NC estuarine system.[1] Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Gray seal, WNA. Harbor porpoise, GME/BF. Harbor seal, WNA. Harp seal, WNA. Humpback whale, Gulf of Maine. Long-finned pilot whale, WNA. Minke whale, Canadian east coast. Risso's dolphin, WNA. Short-finned pilot whale, WNA. White-sided dolphin, WNA.
Northeast sink gillnet	4,375	Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Fin whale, WNA. Gray seal, WNA. Harbor porpoise, GME/BF.[1] Harbor seal, WNA. Harp seal, WNA. Hooded seal, WNA. Humpback whale, Gulf of Maine. Long-finned Pilot whale, WNA. Minke whale, Canadian east coast. North Atlantic right whale, WNA.

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
		Risso's dolphin, WNA.
		Short-finned Pilot whale, WNA.
		White-sided dolphin, WNA.
TRAP/POT FISHERIES:		
Northeast/Mid-Atlantic American lobster trap/pot	11,693	Harbor seal, WNA.
		Humpback whale, Gulf of Maine.
		Minke whale, Canadian east coast.
		North Atlantic right whale, WNA.[1]
LONGLINE FISHERIES:		
Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline*	420	Atlantic spotted dolphin, GMX continental and oceanic.
		Atlantic spotted dolphin, WNA.
		Bottlenose dolphin, Northern GMX oceanic.
		Bottlenose dolphin, WNA offshore.
		Common dolphin, WNA.
		Cuvier's beaked whale, WNA.
		Killer whale, GMX oceanic.
		Long-finned pilot whale, WNA.[1]
		Mesoplodon beaked whale, WNA.
		Northern bottlenose whale, WNA.
		Pantropical spotted dolphin, Northern GMX.
		Pantropical spotted dolphin, WNA.
		Risso's dolphin, Northern GMX.
		Risso's dolphin, WNA.
		Short-finned pilot whale, Northern GMX.
		Short-finned pilot whale, WNA.[1]
		Sperm whale, GMX oceanic.
CATEGORY II		
GILLNET FISHERIES:		
Chesapeake Bay inshore gillnet[2]	1,126	None documented in the most recent 5 years of data.
Gulf of Mexico gillnet[2]	724	Bottlenose dolphin, GMX bay, sound, and estuarine.
		Bottlenose dolphin, Northern GMX coastal.
		Bottlenose dolphin, Western GMX coastal.
NC inshore gillnet	1,323	Bottlenose dolphin, Northern NC estuarine system.[1]
		Bottlenose dolphin, Southern NC estuarine system.[1]
Northeast anchored float gillnet[2]	421	Harbor seal, WNA.
		Humpback whale, Gulf of Maine.
		White-sided dolphin, WNA.
Northeast drift gillnet[2]	311	None documented.
Southeast Atlantic gillnet[2]	357	Bottlenose dolphin, Southern Migratory coastal.
		Bottlenose dolphin, SC/GA coastal.
		Bottlenose dolphin, Central FL coastal.
		Bottlenose dolphin, Northern FL coastal.
Southeastern U.S. Atlantic shark gillnet	30	Bottlenose dolphin, Central FL coastal.[1]
		Bottlenose dolphin, Northern FL coastal.
		North Atlantic right whale, WNA.
TRAWL FISHERIES		
Mid-Atlantic mid-water trawl (including pair trawl)	322	Bottlenose dolphin, WNA offshore.
		Common dolphin, WNA.
		Long-finned pilot whale, WNA.
		Risso's dolphin, WNA.
		Short-finned pilot whale, WNA.
		White-sided dolphin, WNA.[1]
Mid-Atlantic bottom trawl	631	Bottlenose dolphin, WNA offshore.
		Common dolphin, WNA.[1]
		Gray seal, WNA.
		Harbor seal, WNA.
		Long-finned pilot whale, WNA.[1]
		Risso's dolphin, WNA.[1]
		Short-finned pilot whale, WNA.[1]
		White-sided dolphin, WNA.
Northeast mid-water trawl (including pair trawl)	1,103	Gray seal, WNA.
		Harbor seal, WNA.
		Long-finned pilot whale, WNA.[1]
		Short-finned pilot whale, WNA.[1]
		Common dolphin, WNA.
		White-sided dolphin, WNA.
Northeast bottom trawl	2,987	Bottlenose dolphin, WNA offshore.

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
		Common dolphin, WNA.
		Gray seal, WNA.
		Harbor porpoise, GME/BF.
		Harbor seal, WNA.
		Harp seal, WNA.
		Long-finned pilot whale, WNA.
		Minke whale, Canadian East Coast.
		Short-finned pilot whale, WNA.
		White-sided dolphin, WNA.[1]
Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl ..	4,950	Atlantic spotted dolphin, GMX continental and oceanic.
		Bottlenose dolphin, SC/GA coastal.[1]
		Bottlenose dolphin, Eastern GMX coastal.[1]
		Bottlenose dolphin, GMX continental shelf.
		Bottlenose dolphin, Northern GMX coastal.
		Bottlenose dolphin, Western GMX coastal.[1]
		Bottlenose dolphin, GMX bay, sound, estuarine.[1]
		West Indian manatee, FL.
TRAP/POT FISHERIES:		
Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot[2]	1,282	Bottlenose dolphin, Biscayne Bay estuarine.
		Bottlenose dolphin, Central FL coastal.
		Bottlenose dolphin, Eastern GMX coastal.
		Bottlenose dolphin, FL Bay.
		Bottlenose dolphin, GMX bay, sound, estuarine (FL west coast portion).
		Bottlenose dolphin, Indian River Lagoon estuarine system.
		Bottlenose dolphin, Jacksonville estuarine system.
		Bottlenose dolphin, Northern GMX coastal.
Atlantic mixed species trap/pot[2]	3,467	Fin whale, WNA.
		Humpback whale, Gulf of Maine.
Atlantic blue crab trap/pot	8,557	Bottlenose dolphin, Charleston estuarine system.[1]
		Bottlenose dolphin, Indian River Lagoon estuarine system.[1]
		Bottlenose dolphin, Jacksonville estuarine system.[1]
		Bottlenose dolphin, SC/GA coastal.[1]
		Bottlenose dolphin, Northern GA/Southern SC estuarine system.[1]
		Bottlenose dolphin, Southern GA estuarine system.[1]
		Bottlenose dolphin, Northern Migratory coastal.[1]
		Bottlenose dolphin, Southern Migratory coastal.[1]
		Bottlenose dolphin, Central FL coastal.[1]
		Bottlenose dolphin, Northern FL coastal.[1]
		Bottlenose dolphin, Northern NC estuarine system.[1]
		Bottlenose dolphin, Southern NC estuarine system.[1]
		West Indian manatee, FL.[1]
PURSE SEINE FISHERIES:		
Gulf of Mexico menhaden purse seine	40–42	Bottlenose dolphin, GMX bay, sound, estuarine.
		Bottlenose dolphin, Northern GMX coastal.[1]
		Bottlenose dolphin, Western GMX coastal.[1]
Mid-Atlantic menhaden purse seine[2]	5	Bottlenose dolphin, Northern Migratory coastal.
		Bottlenose dolphin, Southern Migratory coastal.
HAUL/BEACH SEINE FISHERIES:		
Mid-Atlantic haul/beach seine	565	Bottlenose dolphin, Northern NC estuarine system.[1]
		Bottlenose dolphin, Northern Migratory coastal.[1]
		Bottlenose dolphin, Southern Migratory coastal.[1]
NC long haul seine	372	Bottlenose dolphin, Southern NC estuarine system.
		Bottlenose dolphin, Northern NC estuarine system.[1]
STOP NET FISHERIES:		
NC roe mullet stop net	13	Bottlenose dolphin, Southern NC estuarine system.[1]
POUND NET FISHERIES:		
VA pound net	67	Bottlenose dolphin, Northern NC estuarine system.
		Bottlenose dolphin, Northern Migratory coastal.[1]
		Bottlenose dolphin, Southern Migratory coastal.[1]
CATEGORY III		
GILLNET FISHERIES:		
Caribbean gillnet	>991	None documented in the most recent 5 years of data.
DE River inshore gillnet	unknown	None documented in the most recent 5 years of data.
Long Island Sound inshore gillnet	unknown	None documented in the most recent 5 years of data.

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
RI, southern MA (to Monomoy Island), and NY Bight (Raritan and Lower NY Bays) inshore gillnet.	unknown	None documented in the most recent 5 years of data.
Southeast Atlantic inshore gillnet	unknown	None documented.
TRAWL FISHERIES:		
Atlantic shellfish bottom trawl	>58	None documented.
Gulf of Mexico butterfish trawl	2	Bottlenose dolphin, Northern GMX oceanic. Bottlenose dolphin, Northern GMX continental shelf.
Gulf of Mexico mixed species trawl	20	None documented.
GA cannonball jellyfish trawl	1	Bottlenose dolphin, South Carolina/Georgia.
MARINE AQUACULTURE FISHERIES:		
Finfish aquaculture	48	Harbor seal, WNA.
Shellfish aquaculture	unknown	None documented.
PURSE SEINE FISHERIES:		
Gulf of Maine Atlantic herring purse seine	>7	Harbor seal, WNA. Gray seal, WNA.
Gulf of Maine menhaden purse seine	>2	None documented.
FL West Coast sardine purse seine	10	Bottlenose dolphin, Eastern GMX coastal.
U.S. Atlantic tuna purse seine *	5	Long-finned pilot whale, WNA. Short-finned pilot whale, WNA.
LONGLINE/HOOK-AND-LINE FISHERIES:		
Northeast/Mid-Atlantic bottom longline/hook-and-line	>1,207	None documented.
Gulf of Maine, U.S. Mid-Atlantic tuna, shark swordfish hook-and-line/harpoon.	428	Humpback whale, Gulf of Maine.
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean snapper-grouper and other reef fish bottom longline/hook-and-line.	>5,000	Bottlenose dolphin, GMX continental shelf.
Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line.	<125	Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, Northern GMX continental shelf.
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean pelagic hook-and-line/harpoon.	1,446	None documented.
U.S. Atlantic, Gulf of Mexico trotline	unknown	None documented.
TRAP/POT FISHERIES		
Caribbean mixed species trap/pot	>501	None documented.
Caribbean spiny lobster trap/pot	>197	None documented.
FL spiny lobster trap/pot	1,268	Bottlenose dolphin, Biscayne Bay estuarine. Bottlenose dolphin, Central FL coastal. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, FL Bay estuarine.
Gulf of Mexico blue crab trap/pot	4,113	Bottlenose dolphin, Western GMX coastal. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, GMX bay, sound, estuarine. West Indian manatee, FL.
Gulf of Mexico mixed species trap/pot	unknown	None documented.
Southeastern U.S. Atlantic, Gulf of Mexico golden crab trap/pot.	10	None documented.
U.S. Mid-Atlantic eel trap/pot	unknown	None documented.
STOP SEINE/WEIR/POUND NET/FLOATING TRAP FISHERIES:		
Gulf of Maine herring and Atlantic mackerel stop seine/weir.	>1	Gray seal, WNA. Harbor porpoise, GME/BF. Harbor seal, WNA. Minke whale, Canadian east coast. White-sided dolphin, WNA.
U.S. Mid-Atlantic crab stop seine/weir	2,600	None documented.
U.S. Mid-Atlantic mixed species stop seine/weir/pound net (except the NC roe mullet stop net).	unknown	Bottlenose dolphin, Northern NC estuarine system.
RI floating trap	9	None documented.
DREDGE FISHERIES:		
Gulf of Maine mussel dredge	unknown	None documented.
Gulf of Maine, U.S. Mid-Atlantic sea scallop dredge	>403	None documented.
U.S. Mid-Atlantic/Gulf of Mexico oyster dredge	7,000	None documented.
U.S. Mid-Atlantic offshore surf clam and quahog dredge	unknown	None documented.
HAUL/BEACH SEINE FISHERIES:		
Caribbean haul/beach seine	15	None documented in the most recent 5 years of data.
Gulf of Mexico haul/beach seine	unknown	None documented.
Southeastern U.S. Atlantic haul/beach seine	25	None documented.

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
Atlantic Ocean, Gulf of Mexico, Caribbean shellfish dive, hand/mechanical collection.	20,000	None documented.
Gulf of Maine urchin dive, hand/mechanical collection	unknown	None documented.
Gulf of Mexico, Southeast Atlantic, Mid-Atlantic, and Caribbean cast net.	unknown	None documented.
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		
Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel.	4,000	Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Western GMX coastal. Bottlenose dolphin, Biscayne Bay estuarine. Bottlenose dolphin, GMX bay, sound, estuarine. Bottlenose dolphin, Indian River Lagoon estuarine system. Bottlenose dolphin, Southern NC estuarine system.

List of Abbreviations and Symbols Used in Table 2: DE—Delaware; FL—Florida; GA—Georgia; GME/BF—Gulf of Maine/Bay of Fundy; GMX—Gulf of Mexico; MA—Massachusetts; NC—North Carolina; SC—South Carolina; VA—Virginia; WNA—Western North Atlantic.

[1] Fishery classified based on serious injuries and mortalities of this stock, which are greater than 50 percent (Category I) or greater than 1 percent and less than 50 percent (Category II) of the stock's PBR.

[2] Fishery classified by analogy.

* Fishery has an associated high seas component listed in Table 3.

TABLE 3—LIST OF FISHERIES—COMMERCIAL FISHERIES ON THE HIGH SEAS

Fishery description	Number of HSFCA permits	Marine mammal species and stocks incidentally killed or injured
Category I		
LONGLINE FISHERIES:		
Atlantic Highly Migratory Species*+	79	Atlantic spotted dolphin, WNA. Bottlenose dolphin, Northern GMX oceanic. Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Cuvier's beaked whale, WNA. Long-finned pilot whale, WNA. Mesoplodon beaked whale, WNA. Pygmy sperm whale, WNA. Risso's dolphin, WNA. Short-finned pilot whale, WNA.
Western Pacific Pelagic (HI Deep-set component)*^+	124	Bottlenose dolphin, HI Pelagic. Bottlenose dolphin, unknown. False killer whale, HI Pelagic. False killer whale, unknown. Pantropical spotted dolphin, HI. Pantropical spotted dolphin, unknown. Risso's dolphin, HI. Risso's dolphin, unknown. Short-finned pilot whale, HI. Short-finned pilot whale, unknown. Striped dolphin, HI. Striped dolphin, unknown.
Category II		
DRIFT GILLNET FISHERIES:		
Atlantic Highly Migratory Species	2	Undetermined.
Pacific Highly Migratory Species*^	4	Long-beaked common dolphin, CA. Humpback whale, CA/OR/WA. Northern right-whale dolphin, CA/OR/WA. Pacific white-sided dolphin, CA/OR/WA. Risso's dolphin, CA/OR/WA. Short-beaked common dolphin, CA/OR/WA.
TRAWL FISHERIES:		
Atlantic Highly Migratory Species**	5	Undetermined.
CCAMLR	0	Antarctic fur seal.
Western Pacific Pelagic	0	Undetermined.
PURSE SEINE FISHERIES:		
South Pacific Tuna Fisheries	38	Undetermined.

TABLE 3—LIST OF FISHERIES—COMMERCIAL FISHERIES ON THE HIGH SEAS—Continued

Fishery description	Number of HSFCA permits	Marine mammal species and stocks incidentally killed or injured
Western Pacific Pelagic	3	Undetermined.
POT VESSEL FISHERIES:		
Pacific Highly Migratory Species **	3	Undetermined.
South Pacific Albacore Troll	3	Undetermined.
Western Pacific Pelagic	3	Undetermined.
LONGLINE FISHERIES:		
CCAMLR	0	None documented.
South Pacific Albacore Troll	11	Undetermined.
South Pacific Tuna Fisheries **	10	Undetermined.
Western Pacific Pelagic (HI Shallow-set component) * ^ +	28	Bottlenose dolphin, HI Pelagic. Bottlenose dolphin, unknown. Humpback whale, Central North Pacific. Kogia sp. whale (Pygmy or dwarf sperm whale), HI. Kogia sp. whale (Pygmy or dwarf sperm whale), unknown. Risso's dolphin, HI. Risso's dolphin, unknown. Short-finned pilot whale, HI. Short-finned pilot whale, unknown. Striped dolphin, HI. Striped dolphin, unknown.
HANDLINE/POLE AND LINE FISHERIES:		
Atlantic Highly Migratory Species	3	Undetermined.
Pacific Highly Migratory Species	40	Undetermined.
South Pacific Albacore Troll	7	Undetermined.
Western Pacific Pelagic	6	Undetermined.
TROLL FISHERIES:		
Atlantic Highly Migratory Species	5	Undetermined.
South Pacific Albacore Troll	36	Undetermined.
South Pacific Tuna Fisheries **	3	Undetermined.
Western Pacific Pelagic	22	Undetermined.
LINERS NEI FISHERIES:		
Pacific Highly Migratory Species **	1	Undetermined.
South Pacific Albacore Troll	1	Undetermined.
Western Pacific Pelagic	1	Undetermined.
FACTORY MOTHERSHIP FISHERIES:		
Western Pacific Pelagic	1	Undetermined.
MULTIPURPOSE VESSELS NEI FISHERIES:		
Atlantic Highly Migratory Species	1	Undetermined.
Pacific Highly Migratory Species **	5	Undetermined.
South Pacific Albacore Troll	4	Undetermined.
Western Pacific Pelagic	4	Undetermined.
Category III		
LONGLINE FISHERIES:		
Pacific Highly Migratory Species * +	96	None documented in the most recent 5 years of data.
PURSE SEINE FISHERIES		
Atlantic Highly Migratory Species * ^	0	Long-finned pilot whale, WNA. Short-finned pilot whale, WNA.
Pacific Highly Migratory Species * ^	6	None documented.
TROLL FISHERIES:		
Pacific Highly Migratory Species *	263	None documented.

List of Terms, Abbreviations, and Symbols Used in Table 3:

GMX—Gulf of Mexico; NEI—Not Elsewhere Identified; WNA—Western North Atlantic.

* Fishery is an extension/component of an existing fishery operating within U.S. waters listed in Table 1 or 2. The number of permits listed in Table 3 represents only the number of permits for the high seas component of the fishery.

** These gear types are not authorized under the Pacific HMS FMP (2004), the Atlantic HMS FMP (2006), or without a South Pacific Tuna Treaty license (in the case of the South Pacific Tuna fisheries). Because HSFCA permits are valid for five years, permits obtained in past years exist in the HSFCA permit database for gear types that are now unauthorized. Therefore, while HSFCA permits exist for these gear types, it does not represent effort. In order to land fish species, fishers must be using an authorized gear type. Once these permits for unauthorized gear types expire, the permit-holder will be required to obtain a permit for an authorized gear type.

+ The marine mammal species or stocks listed as killed or injured in this fishery has been observed taken by this fishery on the high seas.

^ The list of marine mammal species or stocks killed or injured in this fishery is identical to the list of marine mammal species or stocks killed or injured in U.S. waters component of the fishery, minus species or stocks that have geographic ranges exclusively in coastal waters, because the marine mammal species or stocks are also found on the high seas and the fishery remains the same on both sides of the EEZ boundary. Therefore, the high seas components of these fisheries pose the same risk to marine mammals as the components of these fisheries operating in U.S. waters.

TABLE 4—FISHERIES AFFECTED BY TAKE REDUCTION TEAMS AND PLANS

Take reduction plans	Affected fisheries
Atlantic Large Whale Take Reduction Plan (ALWTRP)—50 CFR 229.32	*Category I:* Mid-Atlantic gillnet. Northeast/Mid-Atlantic American lobster trap/pot. Northeast sink gillnet. *Category II:* Atlantic blue crab trap/pot. Atlantic mixed species trap/pot. Northeast anchored float gillnet. Northeast drift gillnet. Southeast Atlantic gillnet. Southeastern U.S. Atlantic shark gillnet.* Southeastern, U.S. Atlantic, Gulf of Mexico stone crab trap/pot.^
Bottlenose Dolphin Take Reduction Plan (BDTRP)—50 CFR 229.35	*Category I:* Mid-Atlantic gillnet. *Category II:* Atlantic blue crab trap/pot. Chesapeake Bay inshore gillnet fishery. Mid-Atlantic haul/beach seine. Mid-Atlantic menhaden purse seine. NC inshore gillnet. NC long haul seine. NC roe mullet stop net. Southeast Atlantic gillnet. Southeastern U.S. Atlantic shark gillnet. Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl.^ Southeastern, U.S. Atlantic, Gulf of Mexico stone crab trap/pot.^ VA pound net.
False Killer Whale Take Reduction Plan (FKWTRP)—50 CFR 229.37 ..	*Category I:* HI deep-set (tuna target) longline/set line. *Category II:* HI shallow-set (swordfish target) longline/set line.
Harbor Porpoise Take Reduction Plan (HPTRP)—50 CFR 229.33 (New England) and 229.34 (Mid-Atlantic).	*Category I:* Mid-Atlantic gillnet. Northeast sink gillnet.
Pelagic Longline Take Reduction Plan (PLTRP)—50 CFR 229.36	*Category I:* Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline.
Pacific Offshore Cetacean Take Reduction Plan (POCTRP)—50 CFR 229.31.	*Category II:* CA thresher shark/swordfish drift gillnet (≥14 in mesh).
Atlantic Trawl Gear Take Reduction Team (ATGTRT)	*Category II:* Mid-Atlantic bottom trawl. Mid-Atlantic mid-water trawl (including pair trawl). Northeast bottom trawl. Northeast mid-water trawl (including pair trawl).
False Killer Whale Take Reduction Team (FKWTRT)	*Category I:* HI deep-set (tuna target) longline/set line. *Category II:* HI shallow-set (swordfish target) longline/set line.

*Only applicable to the portion of the fishery operating in U.S. waters; ^Only applicable to the portion of the fishery operating in the Atlantic Ocean.

Classification

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. The factual basis leading to the certification is set forth below.

Under existing regulations, all individuals participating in Category I or II fisheries must register under the MMPA and obtain an Authorization Certificate. The Authorization Certificate authorizes the taking of non-endangered and non-threatened marine mammals incidental to commercial fishing operations. Additionally, individuals may be subject to a TRP and requested to carry an observer. NMFS has estimated that up to approximately 59,500 fishing vessels, most of which are small entities, may operate in Category I or II fisheries and, therefore, are required to register with NMFS. Of these, approximately 28 are new to a Category I or II fishery as a result of this proposed rule. The MMPA registration process is integrated with existing state and Federal licensing, permitting, and registration programs. Therefore, individuals who have a state or Federal fishing permit or landing license, or who are authorized through another related state or Federal fishery registration program, are currently not required to register separately under the MMPA or pay the $25 registration fee. Therefore, there are no direct costs to small entities under this proposed rule.

If a vessel is requested to carry an observer, individuals will not incur any direct economic costs associated with carrying that observer. Potential indirect costs to individuals required to take observers may include: lost space on deck for catch, lost bunk space, and lost fishing time due to time needed by the observer to process bycatch data. For effective monitoring, however, observers will rotate among a limited number of vessels in a fishery at any given time

and each vessel within an observed fishery has an equal probability of being requested to accommodate an observer. Therefore, the potential indirect costs to individuals are expected to be minimal because observer coverage would only be required for a small percentage of an individual's total annual fishing time. In addition, section 118 of the MMPA states that an observer will not be placed on a vessel if the facilities for quartering an observer or performing observer functions are inadequate or unsafe, thereby exempting vessels too small to accommodate an observer from this requirement. As a result of this certification, an initial regulatory flexibility analysis is not required and was not prepared. In the event that reclassification of a fishery to Category I or II results in a TRP, economic analyses of the effects of that TRP would be summarized in subsequent rulemaking actions.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act. The collection of information for the registration of individuals under the MMPA has been approved by the Office of Management and Budget (OMB) under OMB control number 0648–0293 (0.15 hours per report for new registrants and 0.09 hours per report for renewals). The requirement for reporting marine mammal injuries or mortalities has been approved by OMB under OMB control number 0648–0292 (0.15 hours per report). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these reporting burden estimates or any other aspect of the collections of information, including suggestions for reducing burden, to NMFS and OMB (see **ADDRESSES** and **SUPPLEMENTARY INFORMATION**).

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 unless that collection of information displays a currently valid OMB control number.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

An environmental assessment (EA) was prepared under the National Environmental Policy Act (NEPA) for regulations to implement section 118 of the MMPA in June 1995. NMFS revised that EA relative to classifying U.S. commercial fisheries on the LOF in December 2005. Both the 1995 EA and the 2005 EA concluded that implementation of MMPA section 118 regulations would not have a significant impact on the human environment. This proposed rule would not make any significant change in the management of reclassified fisheries; therefore, this proposed rule is not expected to change the analysis or conclusion of the 2005 EA. The Council of Environmental Quality (CEQ) recommends agencies review EAs every five years; therefore, NMFS reviewed the 2005 EA in 2009. NMFS concluded that, because there have been no changes to the process used to develop the LOF and implement section 118 of the MMPA (including no new alternatives and no additional or new impacts on the human environment), there is no need to update the 2005 EA at this time. If NMFS takes a management action, for example, through the development of a TRP, NMFS would first prepare an environmental document, as required under NEPA, specific to that action.

This proposed rule would not affect species listed as threatened or endangered under the Endangered Species Act (ESA) or their associated critical habitat. The impacts of numerous fisheries have been analyzed in various biological opinions, and this proposed rule will not affect the conclusions of those opinions. The classification of fisheries on the LOF is not considered to be a management action that would adversely affect threatened or endangered species. If NMFS takes a management action, for example, through the development of a TRP, NMFS would conduct consultation under ESA section 7 for that action.

This proposed rule would have no adverse impacts on marine mammals and may have a positive impact on marine mammals by improving knowledge of marine mammals and the fisheries interacting with marine mammals through information collected from observer programs, stranding and sighting data, or take reduction teams.

This proposed rule would not affect the land or water uses or natural resources of the coastal zone, as specified under section 307 of the Coastal Zone Management Act.

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

Dated: April 16, 2013.

Alan D. Risenhoover,

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

[FR Doc. 2013–09391 Filed 4–19–13; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

RIN 0648–AY47

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Herring Fishery; Amendment 5

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

ACTION: Announcement of availability of fishery management plan amendment; request for comments.

SUMMARY: NMFS announces that the New England Fishery Management Council (Council) has submitted Amendment 5 to the Atlantic Herring Fishery Management Plan (FMP) (Amendment 5), incorporating the Final Environmental Impact Statement (FEIS) and the Initial Regulatory Flexibility Analysis (IRFA), for review by the Secretary of Commerce and is requesting comments from the public.

DATES: Comments must be received on or before 5 p.m., local time, June 21, 2013.

ADDRESSES: The Council prepared a FEIS for Amendment 5 that describes the proposed action and other considered alternatives and provides a thorough analysis of the impacts of the proposed measures and alternatives. Copies of Amendment 5, including the FEIS, the Regulatory Impact Review (RIR), and the IRFA, are available from: Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. The FEIS/RIR/IRFA is also accessible via the internet at *http://www.nero.nmfs.gov.*

You may submit comments on this document, identified by NOAA–NMFS–2013–0066, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0066,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* John K. Bullard, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on Herring Amendment 5 NOA.''
- *Fax:* (978) 281–9135, Attn: Carrie Nordeen.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF formats only.

FOR FURTHER INFORMATION CONTACT: Carrie Nordeen, Fishery Policy Analyst, 978–281–9272; fax 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

The goals of Amendment 5 are to: (1) Improve the collection of real-time, accurate catch information; (2) enhance the monitoring and sampling of catch at-sea; and (3) address bycatch issues through responsible management.

On May 8, 2008 (73 FR 26082), the Council published a notice of intent (NOI) to prepare an EIS for Amendment 4 to Atlantic Herring FMP to consider measures to: Improve long-term monitoring of catch (landings and bycatch) in the herring fishery, implement annual catch limits (ACLs) and accountability measures (AMs) consistent with the Magnuson-Stevens Fishery Conservation and Management Act (MSA), and develop a sector allocation process or other limited access privilege program for the herring fishery. The Council subsequently conducted scoping meetings during May and June of 2008 to discuss and take comments on alternatives to these measures. After considering the complexity of the issues under consideration in Amendment 4, the Council voted on June 23, 2009, to split the action into two amendments to ensure the MSA requirements for complying with provisions for ACLs and AMs were be met by 2011. The ACL and AM components moved forward in Amendment 4, all other measures formerly considered in Amendment 4 were to be considered in Amendment 5. A supplementary NOI was published on December 28, 2009, (74 FR 68577) announcing the split between the amendments, and that impacts associated with alternatives considered in Amendment 5 would be analyzed in an EIS. At that time, measures considered under Amendment 5 included: Catch-monitoring program, measures to address river herring bycatch, midwater trawl access to groundfish closed areas, and measures to address interactions with the Atlantic mackerel fishery.

Following further development of Amendment 5, the Council conducted MSA public hearings in March 2012, National Environmental Policy Act public hearings at the beginning of June 2012, and following the public comment period on the draft EIS that ended on June 4, 2012, the Council adopted Amendment 5 on June 20, 2012. The Council submitted Amendment 5 to NOAA Fisheries Service (NMFS) for review on September 10, 2012. Following a series of revisions, the Council submitted a revised version of Amendment 5 to NMFS on March 25, 2013. In Amendment 5, measures recommended by the Council would:

- Modify the herring transfer at-sea and offload definitions to better document the transfer of fish;
- Expand possession limit restrictions to all vessels working cooperatively, consistent with pair trawl requirements;
- Eliminate the vessel monitoring system (VMS) power-down provision for limited access herring vessels, consistent with VMS provisions for other fisheries;
- Establish an ''At-Sea Herring Dealer'' permit to better document the at-sea transfer and sale of herring;
- Establish an ''Areas ⅔ Open Access Permit'' to reduce the potential for the regulatory discarding of herring in the Atlantic mackerel fishery;
- Expand dealer reporting requirements;
- Allow vessels to enroll as herring carriers with either a VMS declaration or letter of authorization to increase operational flexibility;
- Expand pre-trip and pre-landing notification requirements, as well as adding a VMS gear declaration, to all limited access herring vessels to help facilitate monitoring;
- Reduce the advance notice requirement for the observer pre-trip notification from 72 hours to 48 hours;
- Expand vessel requirements related to at-sea observer sampling to help ensure safe sampling and improve data quality;
- Establish measures to minimize the discarding of catch before it has been made available to observers for sampling;

- Increase observer coverage on Category A and B vessels and require industry contributions of $325 per day;
- Establish the ability to consider a river herring catch cap in a future framework to directly control river herring fishing mortality;
- Allow the joint Sustainable Fisheries Coalition/University of Massachusetts School for Marine Science and Technology/Massachusetts Department of Marine Fisheries bycatch avoidance program to investigate providing real-time, cost-effective information on river herring distribution and fishery encounters in River Herring Monitoring/Avoidance Areas; and
- Expand at-sea sampling of midwater trawl vessels fishing in groundfish closed areas.

Public comments are solicited on Amendment 5 and its incorporated documents through the end of the comment period stated in this notice of availability (NOA). Following NMFS's review of the amendment under the MSA, a rule proposing the implementation of measures in Amendment 5 is anticipated to be published in the **Federal Register** for public comment. Public comments must be received by the end of the comment period provided in this NOA of Amendment 5 to be considered in the approval/disapproval decision on the amendment. All comments received by the end of the comment period on the NOA of Amendment 5, whether specifically directed to NOA or the proposed rule, will be considered in the approval/disapproval decision. Comments received after the end of the comment period for the NOA will not be considered in the approval/disapproval decision of Amendment 5.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 17, 2013.

Kara Meckley,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–09390 Filed 4–19–13; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 78, No. 77

Monday, April 22, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Analysis of Service Contract Inventory for FY 2011 and the Planned Analysis of the FY 2012 Inventory; Notice of Availability

Pursuant to the Federal Advisory Committee Act, notice is hereby announcing the public availability of the United States Agency for International Development's Analysis of Service Contract Inventory for FY 2011 and the Planned Analysis of the FY 2012 Inventory at *http://www.usaid.gov/open*.

In accordance with Section 743 of Division C of the Fiscal Year (FY) 2010 Consolidated Appropriations Act, Public Law 111–117, civilian agencies are required to prepare an annual inventory of their service contracts to determine whether the contractors' skills are being utilized in an appropriate manner. As stated in the U.S. Office of Management and Budget (OMB) Memorandum of December 19, 2011 entitled, Service Contract Inventories, by December 30, 2012, USAID must submit a report for public disclosure on its analysis of the FY 2011 service contract inventory to determine if contract labor is being used in an appropriate and effective manner.

At a minimum, the analysis should identify:

(1) The Special Interest Functions Product Service Codes (PSCs) studied by the Agency;

(2) The methodology used by the Agency to support its analysis (e.g. sample contract files, conducted interviews of Agency staff working on specific contracts of interest);

(3) Actions taken or planned by the Agency to address any identified weakness or challenge.

Lisa Glufling,

Chief, Policy Division, Bureau for Management Policy, Budget and Performance, U.S. Agency for International Development.

[FR Doc. 2013–09411 Filed 4–19–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 16, 2013.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Business-Cooperative Service

Title: Small Socially-Disadvantaged Producer Grant Program.

OMB Control Number: 0570–0052.

Summary of Collection: The Small Socially-Disadvantaged Producer Grant Program was authorized by section 2744 of the Federal Agriculture Improvement and Reform Act of 2006, Public Law 109–97. The Act provides for the Secretary of Agriculture to make grants to cooperatives or associations of cooperative whose primary focus is to provide assistance to small, socially-disadvantaged producers and whose governing board and/or membership are comprised of at least 75 percent socially-disadvantaged.

Need and Use of the Information: Rural Business Service needs to receive the information contained in this collection of information to make prudent decisions regarding eligibility of applicants and selection priority among competing applicants, to ensure compliance with applicable laws and regulations and to evaluate the projects it believes will provide the most long-term economic benefit to rural areas.

Description of Respondents: Not-for-profit institutions.

Number of Respondents: 53.

Frequency of Responses: Recordkeeping; Reporting: Semi-Annually; Annually.

Total Burden Hours: 587.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–09326 Filed 4–19–13; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 17, 2013.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper

performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: Study of the Food Distribution Program on Indian Reservation (FDPIR).

OMB Control Number: 0584–NEW.

Summary of Collection: The Food Distribution Program on Indian Reservation (FDPIR) provides USDA foods to low-income households living on Indian reservations and to American Indians residing in designated areas near reservations or in the State of Oklahoma. FDPIR is administered as the Federal level by the Food and Nutrition Service (FNS) of the U.S. Department of Agriculture, and administered locally by either Indian Tribal Organizations (ITOs) or an agency of a State government. FNS is seeking an updated description of FDPIR participants and programs, and a better understanding of why FDPIR participation has been declining. This study will provide national estimates of participating households as well as estimates for large subgroups, such as households with elderly participants.

Need and Use of the Information: The study is needed to inform FNS decision-making regarding FDPIR program administration and to identify ways to make the program more beneficial to participants. It will provide current information on the characteristics of participants and local program administration across the nation. Information on perceptions about the program and potential access barriers will also be obtained to identify reasons for declining national participation. This information is critical to FNS' ongoing assessment of the FDPIR program, and for identifying appropriate future measures that can be put in place to enhance this program.

Description of Respondents: Individuals or households; State, Local, or Tribal Government.

Number of Respondents: 1,554.

Frequency of Responses: Reporting: Other (once).

Total Burden Hours: 1,468.

Food and Nutrition Service

Title: Performance Reporting System, Management Evaluation.

OMB Control Number: 0584–0010.

Summary of Collection: The purpose of the Performance Reporting System is to ensure that each State agency and project area is operating the Supplemental Nutrition Assistance Program (SNAP) in accordance with the Act, regulations, and the State agency's Plan of Operation. Section 11 of the Food and Nutrition Act (the Act) of 2008 requires that State agencies maintain necessary records to ascertain that SNAP is operating in compliance with the Act and regulations and must make these records available to the Food and Nutrition Service (FNS) for inspection.

Need and Use of the Information: FNS will use the information to evaluate state agency operations and to collect information that is necessary to develop solutions to improve the State's administration of SNAP policy and procedures. Each State agency is required to submit one review schedule every one, two, or three years, depending on the project areas make-up of the state.

Description of Respondents: State, Local, or Tribal Government.

Number of Respondents: 53.

Frequency of Responses: Recordkeeping; Reporting: Annually.

Total Burden Hours: 490,832.

Food and Nutrition Service

Title: 7 CFR Part 235 State Administrative Expense Funds.

OMB Control Number: 0584–0067.

Summary of Collection: Section 7 of the Child Nutrition Act of 1966 (Pub. L. 89–642), 42 U.S.C. 1776, authorizes the Department to provide Federal funds to State agencies (SAs) for administering the Child Nutrition Program (7 CFR parts 210, 215, 220, 226, and 250). State Administrative Expense Funds (SAE), 7 CFR parts 235, sets forth procedures and recordkeeping requirements for use by SAs in reporting and maintaining records of their needs and uses of SAE funds. The Food and Nutrition Service (FNS) will collect information using forms FNS–74, FNS–525, and FNS–777.

Need and Use of the Information: FNS request each State submit to the Secretary for approval by October 1 of the initial fiscal year a plan for the use of SAE funds including a staff formula for State personnel, system level supervisory and operating personnel, and school level personnel. The information is collected for the purpose of administering an ongoing program. Without the information FNS would not be able to monitor the SAE funds in accordance to 7 CFR part 235.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 87.

Frequency of Responses: Recordkeeping; Reporting: Annually.

Total Burden Hours: 13,548.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–09378 Filed 4–19–13; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–FV–13–0014; FV13–033–1NC.]

Notice of Request for Renewal of a Recordkeeping Burden

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request for renewal a recordkeeping burden for the information collection for the Export Fruit Acts covering exports of apples and grapes.

DATES: Comments on this notice are due by June 21, 2013 to be assured of consideration.

Additional Information: Contact Andrew Hatch, Chief, Program Services Branch, Marketing Order and

Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Room 1406–S, Washington, DC 20250–0237; Telephone (202) 720–6862 or Email: *andrew.hatch@ams.usda.gov.*

Small businesses may request information on this notice by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Room 1406–S, Washington, DC 20250–0237; Telephone (202) 690–3919 or Email: *jeffrey.smutny@ams.usda.gov.*

Comments: Comments should reference the document number and the date and page number of this issue of the **Federal Register**, and be mailed to the Docket Clerk, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Room 1406–S, Washington, DC 20250–0237; Fax: (202) 720–8938; or submitted through the Internet at *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION:

Title: Export Fruit Regulations—Export Apple Act (7 CFR part 33) and the Export Grape and Plum Act (7 CFR part 35).

OMB Number: 0581–0143.

Expiration Date of Approval: December 31, 2013.

Type of Request: Request for Renewal of a Recordkeeping Burden.

Abstract: Fresh apples and grapes grown in the United States shipped to any foreign destination must meet minimum quality and other requirements established by regulations issued under the Export Apple Act (7 U.S.C. 581–590) and the Export Grape and Plum Act (7 U.S.C. 591–599)(Acts), which are found respectively at 7 CFR parts 33 and 35. Plum provision was terminated in 1991. The regulations issued under the Acts cover exports of fresh apples and grapes grown in the United States and shipped to foreign destinations, except Canada and Mexico. Certain limited quantity provisions may exempt some shipments and exporters from this information collection. The Secretary of Agriculture is authorized to oversee the implementation of the Acts and issue regulations regarding that activity.

The information collection requirements in this request are essential to carry out the intent and administration of the Acts. Both Acts were designed to promote foreign trade in the export of apples, grapes and plums grown in the United States; to protect the reputation of the American-grown commodities; and to prevent deception or misrepresentation of the quality of such products moving in foreign commerce. The Acts have been in effect since 1933 (apples) and 1960 (grapes).

Specific regulations issued under the Acts (7 CFR 33.11 for apples, and 35.12 for grapes) require that the U.S. Department of Agriculture (USDA) officially inspect and certify that each export shipment of fresh apples and grapes is in compliance with quality and shipping requirements effective under the Acts. Shipments are inspected and certified by Federal or Federal-State Inspection Program (FSIP) inspectors. FSIP is administered by USDA.

The information collection requirements in this request impose the minimum burden necessary to effectively administer the Acts.

The information collection burden for this action is primarily in the form of recordkeeping. Export Form Certificates (certificates) issued by FSIP are used to facilitate the export process. The certificates are not completed by the exporters or carriers and are not filed with USDA. The certificates are retained by each exporter, and third party carrier which ships the commodity, to verify their compliance with the Acts. There are an estimated 82 exporters of apples and grapes and an estimated 20 carriers which transport those shipments. Pursuant to the Acts, exporters and carriers must retain inspection certificates for three (3) years.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .14 hours per response.

Recordkeepers: Apple and grape exporters and carriers.

Estimated Number of Recordkeepers: 102.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 26 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record. All comments received will be available for public inspection at the street address in the ''Comment'' section and can be viewed at: *www.regulations.gov.*

Dated: April 16, 2013.

Rex A. Barnes,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2013–09380 Filed 4–19–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–LS–13–0017]

Request for Extension and Revision of a Currently Approved Information Collection for Commodities Covered by the Livestock Mandatory Act of 1999

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this document announces the Agricultural Marketing Service's (AMS) intention to request approval, from the Office of Management and Budget, for an extension of and revision to the currently approved information collection used to compile and generate cattle, swine, lamb, wholesale pork, and boxed beef market news reports under the Livestock Mandatory Reporting Act of 1999.

DATES: Comments on this document must be received by June 21, 2013 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit comments concerning this information collection document. Comments should be submitted online at *www.regulations.gov* or sent to Kim Harmon, Assistant to the Director, Livestock, Poultry and Grain Market News Division, Livestock, Poultry and Seed Program, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave. SW., Room 2619–S, Washington, DC 20250–0252, or by facsimile to (202) 690–3732. All comments should reference the docket number (AMS–LS–13–0017), the date, and the page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, online at *http://*

www.regulations.gov and will be made available for public inspection at the above physical address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Kim Harmon at the above physical address, by telephone (202) 720–8054, or by email at *Kim.Harmon@ams.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Livestock Mandatory reporting Act of 1999.

OMB Number: 0581–0186.

Expiration Date of Approval: December 31, 2013.

Type of Request: Extension of a currently approved information collection.

Abstract: The 1999 Act was enacted into law on October 22, 1999, (Pub. L. 106–78; 7 U.S.C. 1635–1636i), as an amendment to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627). The 1999 Act as originally passed provided for the mandatory reporting of market information by federally inspected livestock processing plants that have slaughtered an average number of livestock during the immediately preceding 5 calendar years (125,000 for cattle and 100,000 for swine), including any processing plant that did not slaughter during the immediately preceding 5 calendar years if the Secretary determines that the plant should be considered a packer based on the plant's capacity. For entities that did not slaughter during the immediately preceding 5 calendar years, such as a new plant or existing plant that begins operations, AMS projects the plant's annual slaughter or production based upon the plant's estimate of annual slaughter capacity to determine which entities meet the definition of packer as defined in the regulation. The 1999 Act also gave the Secretary the latitude to provide for the reporting of lamb information. Federally inspected lamb processing plants that slaughtered an average of 75,000 head of lambs or processed an average of 75,000 lamb carcasses during the immediately preceding 5 calendar years were required to submit information to AMS. Additionally, a lamb processing plant that did not slaughter an average of 75,000 lambs or process an average of 75,000 lamb carcasses during the immediately preceding 5 calendar years was required to report information if the Secretary determined the processing plant should be considered a packer based on its capacity. In addition, the Act also established that for any calendar year, an importer of lamb that imported an average of 2,500 metric tons of lamb meat products during the immediately preceding 5 calendar years was required to report information on the domestic sales of imported boxed lamb cuts. Additionally, an importer that did not import an average of 2,500 metric tons of lamb meat products during the immediately preceding 5 calendar years was required to report information if the Secretary determined that the person should be considered an importer based on their volume of lamb imports. The regulations implementing the Act appear at 7 CFR part 59.

The 1999 Act was reauthorized in October 2006, which re-established the regulatory authority and amended the swine reporting requirements to include swine packers that slaughtered an average of at least 200,000 sows, boars, and or combination thereof per year during the immediately preceding 5 calendar years. On May 16, 2008, AMS published a final rule (75 FR 28606) implementing the same.

September 28, 2010, the Mandatory Price Reporting Act reauthorized LMR for an additional 5 years and added a provision for mandatory reporting of wholesale pork cuts.

The reports that are generated by the 1999 Act are used by other Government agencies to evaluate market conditions and calculate price levels, such as USDA's Economic Research Service and World Agricultural Outlook Board. Economists at most major agricultural colleges and universities use the reports to make short and long-term market projections. Also, the Government is a large purchaser of livestock related products. A system to monitor the collection and reporting of data therefore is needed.

The information must be collected, compiled, and disseminated by an impartial third-party, in a manner which protects the confidentiality of the reporting entities. AMS is in the best position to provide this service.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .171 hours per response.

Respondents: Business or other for-profit entities, individuals or households, farms, and the Federal Government.

Estimated Number of Respondents: 422 respondents.

Estimated Number Responses: 138,684 responses.

Estimated Number of Responses per Respondent: 329 responses.

Estimated Total Annual Burden on Respondents: 23,779 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this document will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: April 16, 2013.

David R. Shipman,

Administrator, Agricultural Marketing Service.

[FR Doc. 2013–09383 Filed 4–19–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2013–0013]

Monsanto Company and Forage Genetics International (FGI); Availability of Petition for Determination of Nonregulated Status of Genetically Engineered Alfalfa

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service (APHIS) has received a petition from the Monsanto Company and Forage Genetics International (FGI) seeking a determination of nonregulated status of alfalfa designated as event KK179, which has been genetically engineered to express reduced levels of guaiacyl lignin. The petition has been submitted in accordance with our regulations concerning the introduction of certain genetically engineered organisms and products. We are making the Monsanto Company and FGI petition available for review and comment to help us identify potential environmental and interrelated economic issues and impacts that APHIS may determine should be considered in our evaluation of the petition.

DATES: We will consider all comments that we receive on or before June 21, 2013.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2013-0013-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2013–0013, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0013* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

The petition is also available on the APHIS Web site at *http://www.aphis.usda.gov/brs/aphisdocs/12_32101p.pdf.*

FOR FURTHER INFORMATION CONTACT: Dr. John Turner, Director, Environmental Risk Analysis Programs, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 851–3954, email: *john.t.turner@aphis.usda.gov*. To obtain copies of the petition, contact Ms. Cindy Eck at (301) 851–3892, email: *cynthia.a.eck@aphis.usda.gov*.

SUPPLEMENTARY INFORMATION:

Background

Under the authority of the plant pest provisions of the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered (GE) organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for a determination of nonregulated status must take and the information that must be included in the petition.

APHIS has received a petition (APHIS Petition Number 12–321–01p) from the Monsanto Company and Forage Genetics International (FGI) seeking a determination of nonregulated status of alfalfa designated as event KK179, which has been genetically engineered to express reduced levels of guaiacyl lignin (G lignin), a major subunit component of total lignin, as compared to conventional alfalfa at the same stage of growth. This reduction in G lignin leads to reduced accumulation of total lignin in alfalfa forage, the principal feed product derived from alfalfa. The petition states that this alfalfa event is unlikely to pose a plant pest risk and, therefore, should not be a regulated article under APHIS' regulations in 7 CFR part 340.

As described in the petition, the Monsanto Company and FGI have developed event KK179 (*Medicago sativa* L.) for reduced levels of G lignin through the suppression of caffeoyl CoA 3-*O*-methyltransferase (CCOMT), a key enzyme in the lignin biosynthetic pathway. Event KK179 was produced by insertion of *CCOMT* gene segments, derived from alfalfa, assembled to form an inverted repeat DNA sequence. The inverted repeat sequence produces double-stranded RNA which suppresses endogenous *CCOMT* gene expression via the RNA interference pathway. Suppression of the *CCOMT* gene expression leads to lower *CCOMT* protein expression resulting in reduced synthesis of G lignin subunit compared to conventional alfalfa at the same stage of growth. The reduction in G lignin subunit synthesis leads to reduced accumulation of total lignin, measured as acid detergent lignin. Event KK179 is currently regulated under 7 CFR part 340. Interstate movement and field tests of event KK179 have been conducted under notifications acknowledged by APHIS.

Field tests conducted under APHIS oversight allowed for evaluation in a natural agricultural setting while imposing measures to minimize risk of persistence in the environment after completion of the test. Data are gathered on multiple parameters and used by the applicant to evaluate agronomic characteristics and product performance. These and other data are used by APHIS to determine if the new variety poses a plant pest risk.

Paragraph (d) of § 340.6 provides that APHIS will publish a notice in the **Federal Register** providing 60 days for public comment for petitions for a determination of nonregulated status. On March 6, 2012, we published in the **Federal Register** (77 FR 13258–13260, Docket No. APHIS–2011–0129) a notice [1] describing our process for soliciting public comment when considering petitions for determinations of nonregulated status for GE organisms. In that notice we indicated that APHIS would accept written comments regarding a petition once APHIS deemed it complete.

In accordance with § 340.6(d) of the regulations and our process for soliciting public input when considering petitions for determinations of nonregulated status for GE organisms, we are publishing this notice to inform the public that APHIS will accept written comments regarding the petition for a determination of nonregulated status from interested or affected persons for a period of 60 days from the date of this notice. The petition is available for public review, and copies are available as indicated under **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** above.

We are interested in receiving comments regarding potential environmental and interrelated economic issues and impacts that APHIS may determine should be considered in our evaluation of the petition. We are particularly interested in receiving comments regarding biological, cultural, or ecological issues, and we encourage the submission of scientific data, studies, or research to support your comments. We also request that, when possible, commenters provide relevant information regarding specific localities or regions as alfalfa growth, crop management, and crop utilization may vary considerably by geographic region.

After the comment period closes, APHIS will review all written comments received during the comment period and any other relevant information; any substantive issues identified by APHIS based on our review of the petition and our evaluation and analysis of comments will be considered in the development of our decisionmaking documents.

As part of our decisionmaking process regarding a GE organism's regulatory status, APHIS prepares a plant pest risk assessment to assess its plant pest risk and the appropriate environmental documentation—either an environmental assessment (EA) or an environmental impact statement (EIS)—in accordance with the National

[1] To view the notice, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0129.*

Environmental Policy Act (NEPA), to provide the Agency with a review and analysis of any potential environmental impacts associated with the petition request. For petitions for which APHIS prepares an EA, APHIS will follow our published process for soliciting public comment (see footnote 1) and publish a separate notice in the **Federal Register** announcing the availability of APHIS' EA and plant pest risk assessment. Should APHIS determine that an EIS is necessary, APHIS will complete the NEPA EIS process in accordance with Council on Environmental Quality regulations (40 CFR part 1500–1508) and APHIS' NEPA implementing regulations (7 CFR part 372).

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 17th day of April 2013.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–09384 Filed 4–19–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2010–0086]

Notice of Availability of a Swine Brucellosis and Pseudorabies Proposed Action Plan

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments; reopening of the comment period.

SUMMARY: We are reopening the comment period for a notice that made a proposed action plan describing a potential new approach to managing swine brucellosis and pseudorabies available for public review and comment. This action will allow interested persons additional time to prepare and submit comments.

DATES: We will consider all comments that we receive on or before July 22, 2013.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2010-0086-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2010–0086, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2010-0086* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Troy Bigelow, National Center for Animal Health Programs, VS, APHIS, Federal Building Room 891, 210 Walnut Street, Des Moines, IA 50309; (515) 284–4121.

SUPPLEMENTARY INFORMATION: On February 7, 2013, we published in the **Federal Register** (78 FR 9028–9029, Docket No. APHIS–2010–0086) a notice that made a proposed action plan describing a potential new approach to managing swine brucellosis and pseudorabies available for public review and comment.

Comments on the notice were required to be received on or before April 8, 2013. We are reopening the comment period on Docket No. APHIS–2010–0086 for an additional 90 days ending July 22, 2013 This action will allow interested persons additional time to prepare and submit comments. We will also consider all comments received between April 9, 2013 (the day after the close of the original comment period) and the date of this notice.

Done in Washington, DC, this 17th day of April 2013.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–09394 Filed 4–19–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2012–0113]

Gypsy Moth Program; Record of Decision

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our record of decision for the final supplemental environmental impact statement for the Gypsy Moth Program.

DATES: *Effective Date:* April 22, 2013.

ADDRESSES: You may read the final supplemental environmental impact statement and the record of decision in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming. The documents are also available on the Internet at *http://na.fs.fed.us/pubs/detail.cfm?id=5251.* To obtain copies of the documents, contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Ms. Julie Spaulding, Plant Protection and Quarantine, APHIS, 4700 River Road, Riverdale, MD 20737; (301) 851–2184.

SUPPLEMENTARY INFORMATION:

Background

On April 29, 2004, the United States Department of Agriculture's (USDA) Forest Service and Animal and Plant Health Inspection Service (APHIS) published a notice in the **Federal Register** (69 FR 23492–23493) announcing the agencies' proposal to add the insecticide tebufenozide (trade name Mimic) to their list of treatments for the control of gypsy moth. In addition to the proposal to add tebufenozide, the agencies also proposed developing a process for adding other insecticides that are currently unidentified and unregistered insecticides, not available at the current time, that may become available in the future to their list of treatments for control of gypsy moth, if the proposed insecticides are within the range of effects and acceptable risks for the existing list of treatments. The notice also announced that the agencies would prepare a supplemental environmental impact statement (SEIS) to the November 1995 final environmental impact statement (EIS), Gypsy Moth Management in the United States: A Cooperative Approach (see 60 FR 61698).

A notice of availability for the draft SEIS was initially published by the Environmental Protection Agency (EPA) in the **Federal Register** on September 19, 2008 (73 FR 54397, Docket No. ER–FRL–8585–7), and a notice of availability regarding the final SEIS was published by EPA in the **Federal Register** on October 19, 2012 (77 FR 64334, Docket No. ER–FRL–9005–6). The National Environmental Policy Act (NEPA) implementing regulations in 40

CFR 1506.10 require a minimum 30-day waiting period between the time a final EIS is published and the time an agency makes a decision on an action covered by the EIS. The Forest Service and APHIS have reviewed the final SEIS and comments received during the 30-day waiting period and have concluded that the final SEIS fully analyzes the issues covered by the draft SEIS and the comments and suggestions submitted by commenters. Based on our final SEIS, the responses to public comments, and other pertinent scientific data, the Forest Service and APHIS have prepared a record of decision.

The record of decision has been prepared in accordance with: (1) NEPA, as amended (42 U.S.C. 4321 *et seq.*); (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508); (3) USDA regulations implementing NEPA (7 CFR part 1b); and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 17th day of April 2013.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013–09395 Filed 4–19–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Flathead Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Flathead Resource Advisory Committee will meet in Kalispell, Montana. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 112–141) (the ''Act'') and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the Title II of the Act. The meeting is open to the public. The purpose of the meeting is to re-evaluate project proposals for 2013 due to reduced funding related to sequestration.

DATES: The meetings will be held May 14, 2013 with an alternative meeting date of May 28, 2013. Meetings will begin at 4:00 p.m. and end at 6:30 p.m.

ADDRESSES: The meetings will be held at 650 Wolfpack Way, Flathead National Forest Office, Kalispell, MT, 59901. Written comments may be submitted as described under Supplementary Information. Written comments should be sent to Flathead National Forest, Attn: Wade Muehlhof/RAC, 650 Wolfpack Way, Kalispell, MT, 59901. Comments may also be sent via email to *ewmuehlhof@fs.fed.us* or via facsimile to 406–758–5351.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at 650 Wolfpack Way, Kalispell, MT 59901. Visitors are encouraged to call ahead to 406–758–5252 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Wade Muehlhof, Flathead National Forest, 406–758–5252.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The following business will be conducted: review of project proposals and adjustment of approvals based on the new funding amount. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by May 1, 2013, to be scheduled on the agenda. Written comments and requests for time for oral comments must be sent to Flathead National Forest, Attn: Wade Muehlhof/RAC, 650 Wolfpack Way, Kalispell, MT 59901, or by email to *ewmuehlhof@fs.fed.us*, or via facsimile to 406–758–5351. A summary of the meeting will be posted at *https://fsplaces.fs.fed.us/fsfiles/unit/wo/secure_rural_schools.nsf* within 21 days of the meeting.

Meeting Accommodations: If you are a person requiring resonable accomodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accomodation for access to the facility or procedings by contacting the person listed under For Further Information Contact. All reasonable accommodation requests are managed on a case by case basis.

Dated: April 15, 2013.

Chip Weber,

Forest Supervisor, Flathead National Forest.

[FR Doc. 2013–09357 Filed 4–19–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

North Central Idaho Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The North Central Idaho Resource Advisorsy Committee (RAC) will be meet in Grangeville, Idaho. The RAC is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) (Pub. L. 112–141) and operates in compliance with the Federal Advisory Committee Act (FACA) (Pub. L. 92–463). The purpose of the RAC is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meeting is open to the public. The purpose of the meeting is review Title II projects that were previously recommended for funding in August, 2012.

DATES: The meeting will be held Tuesday, May 7, 2013 at 9:30 a.m. (PST).

ADDRESSES: The meeting will be held at the Nez Perce-Clearwater National Forests Headquarters Office, 104 Airport Road, Grangeville, Idaho 83530, in the Pilot Knob Room. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Nez Perce-Clearwater National Forests Headquarters Office, 104 Airport Road, Grangeville, Idaho 83530. Please call ahead to Laura Smith, Designated Forest Official by phone at (208) 983–5143 to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: Laura Smith, Designated Forest Official, Nez Perce-Clearwater National Forests Headquarters at (208) 983–5143, or by email *lasmith@fs.fed.us*. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The following business will be conducted: Review the Title II Projects that were previously recommended for funding in August, 2012. Anyone who would like to bring related matters to the attention of the RAC may file written statements with the RAC staff before the meeting. Written comments and requests for time for oral comments must be sent to Laura Smith, Designated Forest Official, Nez Perce-Clearwater National Forests Headquarters, by email to *lasmith@fs.fed.us*, or via facsimile to (208) 983–4099. A summary of the meeting will be posted at *https://www.fido.gov/facadatabase/public.asp*. within 21 days of the meeting.

Meeting Accommodations: If you require sign language interpreting, assistive listening devices or other reasonable accommodation please request this in advance of the meeting by contacting the person listed in the section titled, **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case-by-case basis.

Dated: April 15, 2013.

Rick Brazell,

Forest Supervisor, Nez Perce-Clearwater National Forest.

[FR Doc. 2013–09358 Filed 4–19–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

Nomination Form of Veterinary Shortage Situations for the Veterinary Medicine Loan Repayment Program (VMLRP)

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Notice and request for comments.

SUMMARY: The National Institute of Food and Agriculture (NIFA), as part of its compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, invites the general public to comment on an information collection for the Veterinary Medicine Loan Repayment Program (VMLRP). This notice initiates a 30-day comment period and prescribes the proposed nomination form for the VMLRP that will be submitted to the Office of Management and Budget (OMB) for renewal. The NIFA may not conduct or sponsor, and the respondent is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

DATES: Comments regarding this information collection must be received on or before May 22, 2013 to be assured of having their full effect.

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

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

Email: vmlrp@nifa.usda.gov. Include the text ''VMLRP Shortage Situation Nomination Form'' in the subject line of the message.

Fax: (202) 720–0857.

Mail: Paper, disk or CD–ROM submissions should be submitted to National Institute of Food and Agriculture; U.S. Department of Agriculture; STOP 2216; 1400 Independence Avenue SW.; Washington, DC 20250–2216.

Hand Delivery/Courier: National Institute of Food and Agriculture; U.S. Department of Agriculture; Room 4213, Waterfront Centre; 800 9th Street SW.; Washington, DC 20024.

Instructions: All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Jason Hitchcock; Office of Information Technology; National Institute of Food and Agriculture; U.S. Department of Agriculture; STOP 2216; 1400 Independence Avenue SW.; Washington, DC 20250–2216; Fax: 202–720–0857; Email: *jhitchcock@nifa.usda.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Collection

Title: VMLRP Veterinarian Shortage Situation Nomination.

OMB Number: 0524–0046.

Type of Request: Intent to request OMB approval to renew an information collection for VMLRP.

Abstract: NIFA established a process to designate veterinarian shortage situations for the VMLRP as authorized under section 1415A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA). This information collection applies to Subpart A of 7 CFR Part 3431.

Need and Use of the Information: NIFA publishes an annual solicitation in the **Federal Register** which requests the Animal Health Official in each state and insular area to submit the VMLRP Veterinarian Shortage Situation Nomination Form for each situation or position for which there is a critical shortage of practicing veterinarians. This form includes questions requiring checkboxes or text with a word limitation to minimize the burden for nominators and reviewers. Submitted nomination forms are reviewed and evaluated by a panel according to the criteria identified in the published solicitation. From these evaluations, the VMLRP Program Director may designate the recommended shortage situations and these designations are identified in the Request for Applications (RFA) for VMLRP loan repayment applications from individual veterinarians.

Method of Collection: The information collection (nomination form) is available on the NIFA Web site and nominators are required to make submissions by emailing the completed forms to *vmlrp@nifa.usda.gov.*

Frequency of Response: Annual nominations.

Type of Respondents: Animal Health Official of each state and insular area.

Estimated Number of Respondents: 57 respondents.

Estimated Number of Responses: 267 respondents (range of 1 to 8 for each nominating entity).

Estimated Total Annual Burden on Respondents: 534 hours.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection. All comments will become a matter of public record. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the VMLRP, including whether the information will have practical utility; (b) the accuracy of the public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information), including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the public burden through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Obtaining a Copy of the Information Collection: A copy of the information collection and related instructions may be obtained free of charge by contacting Jason Hitchcock by telephone, (202) 720–4343, or by email, *jhitchcock@nifa.usda.gov.* Information is also available at: *http://www.nifa.usda.gov/vmlrp.*

Done in Washington, DC, this 16th day of April, 2013.

Catherine Woteki,

Under Secretary for Research, Education, and Economics.

[FR Doc. 2013–09382 Filed 4–19–13; 8:45 am]

BILLING CODE 3410–22–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: Wednesday, April 24, 2013; 3:30 p.m.–3:45 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 telephonically at the time and location listed above. The meeting will be a continuation of the April 11, 2013 meeting, which was adjourned due to lack of a quorum. 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. A complete audio recording and a verbatim transcript of the meeting will promptly be made available for public observation 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. 2013–09564 Filed 4–18–13; 4:15 pm]

BILLING CODE 8610–01–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Proposed Information Collection; Comment Request; Generic Clearance for Questionnaire Pretesting Research

AGENCY: Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before June 21, 2013.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Theresa J. DeMaio, U.S. Census Bureau, Room 5K–319, 4600 Silver Hill Road, Washington, DC 20233–9150, (301) 763–4894 (or via the Internet at *theresa.j.demaio@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request an extension of the current OMB approval to conduct a variety of small-scale questionnaire pretesting activities under this generic clearance. A block of hours will be dedicated to these activities for each of the next three years. OMB will be informed in writing of the purpose and scope of each of these activities, as well as the time frame and number of burden hours used. The number of hours used will not exceed the number set aside for this purpose.

This research program will be used by the Census Bureau and survey sponsors to improve questionnaires and procedures, reduce respondent burden, and ultimately increase the quality of data collected in the Census Bureau censuses and surveys. The clearance will be used to conduct pretesting of decennial, demographic, and economic census and survey questionnaires prior to fielding them. Pretesting activities will involve one of the following methods of identifying measurement problems with the questionnaire or survey procedure: Cognitive interviews, focus groups, respondent debriefing, behavior coding of respondent/interviewer interaction, and split panel tests.

II. Method of Collection

Any of the following methods may be used: Mail, telephone, face-to-face, paper-and-pencil, CATI, CAPI, Internet, or IVR.

III. Data

OMB Number: 0607–0725.
Form Number: Various.
Type of Review: Regular submission.
Affected Public: Individuals or Households, Farms, Business or other for-profit.
Estimated Number of Respondents: 16,500.
Estimated Time per Response: 1 hour.
Estimated Total Annual Burden Hours: 16,500.
Estimated Total Annual Cost: There is no cost to respondent, except for their time to complete the questionnaire.
Respondent's Obligation: Voluntary.

Legal Authority: 13 U.S.C. 131, 141, 142, 161, 181, 182, 193, and 301.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including house and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 17, 2013.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–09370 Filed 4–19–13; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Information Collection; Comment Request; Delivery Verification Procedure for Imports

AGENCY: Bureau of Industry and Security.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before June 21, 2013.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Larry Hall, BIS ICB Liaison, (202) 482–4895, *Lawrence.Hall@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Foreign governments, on occasions, require U.S. importers of strategic commodities to furnish their foreign supplier with a U.S. Delivery Verification Certificate validating that the commodities shipped to the U.S. were, in fact, received. This procedure increases the effectiveness of controls on the international trade of strategic commodities.

II. Method of Collection

Submitted electronically or on paper.

III. Data

OMB Control Number: 0694–0016.

Form Number(s): BIS–647P.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time per Response: 31 minutes.

Estimated Total Annual Burden Hours: 56.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 16, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–09342 Filed 4–19–13; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No.: 130212127–3127–01]

Proposed Establishment of a Federally Funded Research and Development Center-First Notice

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST), Department of Commerce, intends to sponsor a Federally Funded Research and Development Center (FFRDC) to facilitate public-private collaboration for accelerating the widespread adoption of integrated cybersecurity tools and technologies. This is the first of three notices which must be published over a 90-day period in order to advise the public of the agency's intention to sponsor an FFRDC.

DATES: Written comments must be received by 5:00 p.m. Eastern time on July 22, 2013.

ADDRESSES: Comments on this notice must be received by Keith Bubar, Contracting Officer, National Institute of Standards and Technology, 100 Bureau Drive, Mailstop 1640, Gaithersburg, MD 20899, including by email to Mr. Bubar at *keith.bubar@nist.gov.*

FOR FURTHER INFORMATION CONTACT: Keith Bubar via email at *Keith.Bubar@nist.gov* or telephone 301.975.8329.

SUPPLEMENTARY INFORMATION: The National Cybersecurity Center of Excellence (NCCoE), hosted by NIST, is a public-private collaboration for accelerating the widespread adoption of integrated cybersecurity tools and technologies. The NCCoE will bring together experts from industry, government, and academia under one roof to develop practical, interoperable cybersecurity approaches that address the real world needs of complex Information Technology (IT) systems. By accelerating dissemination and use of these integrated tools and technologies for protecting IT assets, the NCCoE will enhance trust in U.S. IT communications, data, and storage systems, lower risk for companies and individuals in the use of IT systems, and encourage development of innovative, job-creating cybersecurity products and services.

NIST has identified the need to support the NCCoE's mission through the establishment of an FFRDC. In evaluating the need for the FFRDC, NIST determined that no existing FFRDC or contract vehicles provide the scope of services NIST requires. The proposed NCCoE FFRDC will have three primary purposes: (1) Research, Development, Engineering, and Technical support; (2) Program/Project Management, to include but not limited to expert advice and guidance in the areas of program and project management focused on increasing the effectiveness and efficiency of cybersecurity applications, prototyping, demonstrations, and technical activities; and (3) Facilities Management. The proposed NCCoE FFRDC may also be utilized by non-sponsors.

The FFRDC will be established under the authority of 48 CFR 35.017.

The NCCoE FFRDC Contractor will be available to provide a wide range of support including, but not limited to:

- Research, Development, Engineering and Technical Support:
  - Establish relationships with private sector organizations to use private sector resources to accomplish tasks that are integral to the operations and mission of the NCCoE.
  - Research and develop frameworks and implementation strategies for inducing industry to invest in and expedite adoption of effective cybersecurity controls and mechanisms on an enterprise-wide scale; and in collaboration with Federal and local governments, deliver planning and documentation support needed to transfer technologies developed by Federal cybersecurity organizations and the NCCoE to production, integration,

economic development, and operational implementation entities.

○ Provide systems engineering support to NCCoE programs and proposed security platform development, selection, and implementation. This will include NCCoE infrastructure, project planning, project implementation, and technology transfer components of the NCCoE's efforts to accelerate adoption of robust cybersecurity technologies in the government and private sectors.

○ Generate technical expertise to create a relevant cybersecurity workforce in coordination with the NCCoE staff and in close collaboration with the National Initiative for Cybersecurity Education and with Federal government, university, and industry participants and collaborators in NCCoE activities.

○ Deliver strategies and plans for applying cybersecurity standards, guidelines, and best practice inducements and capabilities to both government and private sectors.

• Program/Project Management:

○ Work within the purpose, mission, general scope, or competency as assigned by the sponsoring agency.

○ Develop and maintain in-depth institutional knowledge of NCCoE programs and operations in order to maintain continuity in the field of cybersecurity and to maintain a high degree of competence, objectivity, and independence in order to respond effectively to the emerging cybersecurity needs of the Nation.

• Facilities Management:

○ In coordination with NCCoE staff, and in collaboration with the State of Maryland and Montgomery County, Maryland, manage physical and logical collaborative facilities to support the acceleration and adoption of robust cybersecurity technologies in the government and private sectors. The activity includes staff support for information technology operations, custodial functions, physical access management, and maintenance operations.

The FFRDC will partner with the sponsoring agency in the design and pursuit of mission goals; provide rapid responsiveness to changing requirements for personnel in all aspects of strategic, technical and program management; recognize Government objectives as its own objectives, partner in pursuit of excellence in public service; and allow for use of the FFRDC by non-sponsors.

We are publishing this notice in accordance with 48 CFR 5.205(b) of the Federal Acquisition Regulations (FAR), to enable interested members of the public to provide comments on this proposed action. This is the first of three notices issued under the authority of 48 CFR 5.205(b). In particular, we are interested in feedback regarding the proposed scope of the work to be performed by the FFRDC, and the presence of any existing private- or public-sector capabilities in this area that NIST should be considering.

It is anticipated that a Request for Proposal (RFP) will be posted on FedBizOpps in the Summer of 2013. Alternatively, a copy of the RFP can be obtained by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section above once the RFP is posted.

Dated: April 16, 2013.

Mary Saunders,

Associate Director for Management Resources.

[FR Doc. 2013–09376 Filed 4–19–13; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC635

South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Meeting of the South Atlantic Fishery Management Council.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a special webinar meeting in order to address Snapper Grouper Regulatory Amendment 19 as well as the Proposed Rule for Gulf Council Permit Transfer and Renewal Requirements. The Council will take action as necessary. The Council will also hold a public comment session via webinar.

DATES: The Council meeting will be held from 1 p.m. until 5 p.m. on Monday, May 13, 2013.

ADDRESSES: *Meeting address:* The meeting will be held via GoToWebinar. The webinar is open to members of the public. Those interested in participating should contact Mike Collins (see Contact Information below) to request an invitation providing webinar access information. Please request meeting information at least 24 hours in advance of the meeting.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Mike Collins, Administrative Officer, SAFMC; telephone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *mike.collins@safmc.net.*

SUPPLEMENTARY INFORMATION: The items of discussion are as follows:

Council Session Agenda, Monday, May 13, 2013, 1 p.m. until 5 p.m.

1. Call the meeting to order, adopt the agenda and approve the March 2013 minutes.

Public comment will be accepted on Snapper Grouper Regulatory Amendment 19 and the Proposed Rule to address Permit Transfer and Renewal Requirements for Gulf of Mexico For-Hire Permits. Individuals wishing to comment verbally must use the question feature (box) on the webinar control panel to indicate their desire to speak. This must be done by 1:15 p.m. (The webinar page will be available from 12 noon until 1:15 p.m. on May 13, 2013 for individuals to register their desire to comment verbally.) At 1:15 p.m., the Chairman will begin the public comment period by calling on those individuals that registered using the webinar control panel question feature.

Snapper Grouper Regulatory Amendment 19

1. Receive an update on the Scientific and Statistical Committee (SSC) review and recommendations of the 2013 stock assessment update for black sea bass.

2. Receive an overview and a summary of public comments pertaining to Regulatory Amendment 19. This amendment proposes changes in Annual Catch Limits (ACLs), Annual Catch Targets (ACTs), and the Allowable Biological Catch (ABC) for black sea bass.

3. Discuss the amendment, modify it as appropriate, select preferred alternatives, deem the codified text as necessary, and approve Regulatory Amendment 19 for formal Secretarial review.

Gulf Council Permit Transfer and Renewal Requirements

1. Receive an overview of the Proposed Rule to address permit transfer and renewal requirement for Gulf of Mexico for-hire permits only. This action would revise current transfer restrictions and would allow a for-hire vessel to maintain greater capacity for non-fishing activities. While fishing, however, the passenger capacity listed on the for-hire permit

(based on the passenger capacity of the vessel when the permit was issued) remains restricted to the permit. Additionally, the vessel would no longer need to submit a Certificate of Inspection documentation for renewal.

2. Discuss and approve the Proposed Rule.

Documents regarding these issues are available from the Council office (see **ADDRESSES**).

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 identified 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 auxiliary aids should be directed to the council office (see **ADDRESSES**) 3 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

Dated: April 17, 2013.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–09397 Filed 4–19–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC218

Marine Mammals; File No. 17298

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that a permit has been issued to Mystic Aquarium, Mystic, Connecticut 06355 [Responsible Party: Stephen Coan, Ph.D.] to collect, import, export, and receive marine mammal parts for scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376; and

Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930; phone (978) 281–9328; fax (978) 281–9394.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Jennifer Skidmore, (301)427–8401.

SUPPLEMENTARY INFORMATION: On October 2, 2012, notice was published in the **Federal Register** (77 FR 60107) that a request for a permit to conduct research on marine mammals parts had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The permit authorizes Mystic Aquarium to annually collect, receive, import and export biological samples from 5,000 individual cetaceans and 5,000 individual pinnipeds under NMFS jurisdiction to conduct studies of diet and nutrition, disease, immune function, environmental stressors, toxicology and health of marine mammals. No takes of live animals, direct or indirect, are authorized by the permit. The permit expires on April 1, 2018.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

As required by the ESA, issuance of this permit was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: April 16, 2013.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–09297 Filed 4–19–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC496

Takes of Marine Mammals Incidental to Specified Activities; Russian River Estuary Management Activities

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to the Sonoma County Water Agency (SCWA) to incidentally harass, by Level B harassment only, three species of marine mammals during estuary management activities conducted at the mouth of the Russian River, Sonoma County, California.

DATES: This authorization is effective for the period of one year, from April 21, 2013, through April 20, 2014.

ADDRESSES: SCWA's application as well as a list of the references used in this document may be obtained by visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* Supplemental documents provided by SCWA may be found at the same web address, as can NMFS' Environmental Assessment (2010) and associated Finding of No Significant Impact, prepared pursuant to the National Environmental Policy Act, and NMFS' Biological Opinion (2008) on the effects of Russian River management activities on salmonids, prepared pursuant to the Endangered Species Act. These documents cited may also be viewed, by appointment only (see **FOR FURTHER INFORMATION CONTACT**), at the National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

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 published in the **Federal Register** to provide public notice and initiate a 30-day comment period.

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 other means of effecting the least practicable adverse impact (i.e., mitigation) and requirements pertaining to 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.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by Level B harassment as defined below. Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization. If authorized, the IHA would be effective for one year from date of issuance.

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

We received an application on January 17, 2013, from SCWA for issuance of an IHA for the taking, by Level B harassment only, of marine mammals incidental to ongoing activities conducted in management of the Russian River estuary in Sonoma County, California. SCWA was first issued an IHA, valid for a period of one year, on April 1, 2010 (75 FR 17382), and was subsequently issued IHAs for incidental take associated with the same activities on April 21, 2011 (76 FR 23306) and April 17, 2012 (77 FR 24471). Management activities include management of a naturally-formed barrier beach at the mouth of the river in order to minimize potential for flooding of properties adjacent to the Russian River estuary and enhance habitat for juvenile salmonids, and biological and physical monitoring of the estuary. Flood control-related breaching of barrier beach at the mouth of the river may include artificial breaches, as well as construction and maintenance of a lagoon outlet channel. The latter activity, an alternative management technique conducted to mitigate impacts of flood control on rearing habitat for salmonids listed as threatened and endangered under the Endangered Species Act (ESA), occurs only from May 15 through October 15 (hereafter, the ''lagoon management period''). All estuary management activities are conducted by SCWA in accordance with a Reasonable and Prudent Alternative (RPA) included in NMFS' Biological Opinion (BiOp) for Water Supply, Flood Control Operations, and Channel Maintenance conducted in the Russian River watershed (NMFS, 2008). Species known from the haul-out at the mouth of the Russian River include the harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), and northern elephant seal (*Mirounga angustirostris*).

Description of the Specified Activity

Breaching of naturally-formed barrier beach at the mouth of the Russian River requires the use of heavy equipment (e.g., bulldozer, excavator) and increased human presence. As a result, pinnipeds hauled out on the beach may exhibit behavioral responses that indicate incidental take by Level B harassment under the MMPA. Numbers of harbor seals, the species most commonly encountered at the haul-out, have been recorded extensively since 1972 at the haul-out near the mouth of the Russian River.

The estuary is located about 97 km (60 mi) northwest of San Francisco in Sonoma County, near Jenner, California (see Figure 1 of SCWA's application). The Russian River watershed encompasses 3,847 km^2 (1,485 mi^2) in Sonoma, Mendocino, and Lake Counties. The mouth of the Russian River is located at Goat Rock State Beach; the estuary extends from the mouth upstream approximately 10 to 11 km (6–7 mi) between Austin Creek and the community of Duncans Mills (Heckel and McIver, 1994). The proposed action involves management of the estuary to prevent flooding while avoiding adverse modification to critical habitat for ESA-listed salmonids. During the lagoon management period only, this involves construction and maintenance of a lagoon outlet channel that would facilitate formation of a perched lagoon, which will reduce flooding while maintaining appropriate conditions for juvenile salmonids. Additional breaches of barrier beach may be conducted for the sole purpose of reducing flood risk.

There are three components to SCWA's ongoing estuary management activities: (1) Lagoon outlet channel management, during the lagoon management period only, required to accomplish the dual purposes of flood risk abatement and maintenance of juvenile salmonid habitat; (2) traditional artificial breaching, with the sole objective of flood risk abatement; and (3) physical and biological monitoring in and near the estuary, required under the terms of the BiOp, to understand response to water surface elevation management in the estuary-lagoon system. In addition to these ongoing management activities, SCWA will conduct new monitoring work at the mouth of the Russian River during the period of this IHA. This additional activity comprises a plan to study the effects of a historical, dilapidated jetty on the formation and maintenance of the Russian River estuary, as required under RPA 2 of the 2008 BiOp. Through several phases from 1929–1948, the jetty and associated seawall, roadway, and railroad were constructed, reinforced and then abandoned by various entities. The plan for study of the jetty is described in greater detail in SCWA's 'Feasibility of Alternatives to the Goat Rock State Beach Jetty for Managing Lagoon Water Surface Elevations—A Study Plan' (ESA PWA, 2011), available online (see **ADDRESSES**).

SCWA's estuary management activities generally involve the use of heavy equipment and increased human presence on the beach, in order to excavate and maintain an outlet channel from the lagoon to the ocean or to conduct artificial breaching. Pupping season for harbor seals at the mouth of the Russian River typically peaks during May. However, pupping is known to begin in March and may continue through the end of June; pupping season for harbor seals is conservatively defined here as March 15 to June 30. During pupping season, management

events may occur over a maximum of two consecutive days per event and all estuary management events on the beach must be separated by a minimum no-work period of one week. The use of heavy equipment and increased human presence has the potential to harass hauled-out marine mammals by causing movement or flushing into the water. Mitigation and monitoring measures described later in this document are designed to minimize this harassment to the lowest practicable level.

Equipment (e.g., bulldozer, excavator) is off-loaded in the parking lot of Goat Rock State Park and driven onto the beach via an existing access point. Personnel on the beach will include up to two equipment operators, three safety team members on the beach (one on each side of the channel observing the equipment operators, and one at the barrier to warn beach visitors away from the activities), and one safety team member at the overlook on Highway 1 above the beach. Occasionally, there will be two or more additional people on the beach (SCWA staff or regulatory agency staff) to observe the activities. SCWA staff will be followed by the equipment, which will then be followed by an SCWA vehicle (typically a small pickup truck, to be parked at the previously posted signs and barriers on the south side of the excavation location).

Lagoon Outlet Channel Management

Active management of estuarine/lagoon water levels commences following the first closure of the barrier beach during this period. When this happens, SCWA monitors lagoon water surface elevation and creates an outlet channel when water levels in the estuary are between 4.5 and 7.0 ft (1.4–2.1 m) in elevation. Management practices will be incrementally modified over the course of the lagoon management period in an effort to improve performance in meeting the goals of the BiOp while preventing flooding.

Ideally, initial implementation of the outlet channel would produce a stable channel for the duration of the lagoon management period. However, the sheer number of variables and lack of past site-specific experience likely preclude this outcome, and succeeding excavation attempts may be required. The precise number of excavations would depend on uncontrollable variables such as seasonal ocean wave conditions (e.g., wave heights and lengths), river inflows, and the success of previous excavations (e.g., the success of selected channel widths and meander patterns) in forming an outlet channel that effectively maintains lagoon water surface elevations. Based on lagoon management operations under similar conditions at Carmel River, and expectations regarding how wave action and sand deposition may increase beach height or result in closure, it is predicted that up to three successive outlet channel excavation events, at increasingly higher beach elevations, may be necessary to produce a successful outlet channel. In the event that an outlet channel fails through breaching (i.e., erodes the barrier beach and forms a tidal inlet), SCWA would resume adaptive management of the outlet channel's width, slope, and alignment in consultation with NMFS and the California Department of Fish and Game (CDFG), only after ocean wave action naturally reforms a barrier beach and closes the river's mouth during the lagoon management period.

Implementation and Maintenance—Upon successful construction of an outlet channel, adaptive management, or maintenance, may be required for the channel to continue achieving performance criteria. In order to reduce disturbance to seals and other wildlife, as well as beach visitors, the amount and frequency of mechanical intervention will be minimized. As technical staff and maintenance crews gain more experience with implementing the outlet channel and observing its response, maintenance is anticipated to be less frequent, with events of lesser intensity. During pupping season, machinery may only operate on up to two consecutive working days, including during initial construction of the outlet channel. In addition, SCWA must maintain a one week no-work period between management events during pupping season, unless flooding is a threat, to allow for adequate disturbance recovery period. During the no-work period, equipment must be removed from the beach. SCWA seeks to avoid conducting management activities on weekends (Friday–Sunday) in order to reduce disturbance of beach visitors. In addition, activities are to be conducted in such a manner as to effect the least practicable adverse impacts to pinnipeds and their habitat as described later in this document (see ''Mitigation'').

Artificial Breaching

The estuary may close naturally throughout the year as a result of barrier beach formation at the mouth of the Russian River. Although closures may occur at any time of the year, the mouth usually closes during the spring, summer, and fall (Heckel and McIver, 1994; MSC, 1997, 1998, 1999, 2000; SCWA and MSC, 2001). Closures result in lagoon formation in the estuary and, as water surface levels rise, flooding may occur. For decades, artificial breaching has been performed in the absence of natural breaching, in order to alleviate potential flooding of low-lying shoreline properties near the town of Jenner. Artificial breaching, as defined here, is conducted for the sole purpose of reducing flood risk, and thus is a different type of event, from an engineering perspective, than are the previously described lagoon management events. Artificial breaching activities occur in accordance with the BiOp, and primarily occur outside the lagoon management period (i.e., artificial breaching would primarily occur from October 16 to May 14). However, if conditions present unacceptable risk of flooding during the lagoon management period, SCWA may artificially breach the sandbar a maximum of two times during that period. Implementation protocol would follow that described previously for lagoon outlet channel management events, with the exception that only one piece of heavy equipment is likely to be required per event, rather than two.

Physical and Biological Monitoring

SCWA is required by the BiOp and other state and federal permits to collect biological and physical habitat data in conjunction with estuary management. Monitoring requires the use of boats and nets in the estuary, among other activities, and will require activities to occur in the vicinity of beach and river haul-outs (see Figure 4 of SCWA's application); these monitoring activities have the potential to disturb pinnipeds. The majority of monitoring is required under the BiOp and occurs approximately during the lagoon management period (mid-May through October or November), depending on river dynamics. Beach topographic surveys occur year-round.

Jetty Study

The jetty study will analyze the effects of the jetty on beach permeability and sand storage and transport. These physical processes are affected by the jetty, and, in turn, may affect seasonal water surface elevations and flood risk. Evaluating and quantifying these linkages will inform the development and evaluation of management alternatives for the jetty. The study involves delineation of two study transects perpendicular to the beach barrier (see Figure 5 of SCWA's application), with six water seepage monitoring wells be constructed (three

per transect). In addition, geophysical surveys will be conducted in order to better understand the characteristics of the barrier beach substrate and the location and composition of buried portions of the jetty and associated structures. Once the initial geophysical surveys have been completed, additional surface electromagnetic profiles will be collected along the barrier beach in order to explore how the jetty impacts beach seepage relative to the natural beach berm.

Comments and Responses

We published a notice of receipt of SCWA's application and proposed IHA in the **Federal Register** on March 8, 2013 (78 FR 14985). During the 30-day comment period, we received a letter from the Marine Mammal Commission (MMC). The MMC recommended that we issue the requested authorization, subject to inclusion of the proposed mitigation and monitoring measures as described in our notice of proposed IHA and the application. All measures proposed in the initial **Federal Register** notice are included within the authorization and we have determined that they will effect the least practicable impact on the species or stocks and their habitats.

We also received a comment letter from one private citizen. The individual expressed general concern about the proposed activities and potential effects on the harbor seal haul-out at Goat Rock State Beach, describing the potential for abandonment of the haul-out by harbor seals as a result of long-term, cumulative adverse impacts of construction activity over time and the secondary impacts of estuary management; notably, the likelihood of increased human presence on the beach resulting from increased access. It is appropriate to note here that, under the MMPA, we do not have jurisdiction over the management actions required of SCWA as a result of the 2008 BiOp or over human access and use of Goat Rock Beach State Park. The portion of SCWA's specified activity of specific concern (maintenance of lagoon conditions during the summer months) is an important component of a suite of management actions prescribed for salmonid conservation. We understand and appreciate the concerns expressed but note that, while natural resource management often requires difficult choices, there is no evidence to date that the incidental harassment of harbor seals described herein will result in long-term displacement from the haul-out. Further, there is no evidence that any of the potential effects to harbor seals at Goat Rock State Beach could potentially result in long-term or population level impacts to the California stock of harbor seals as a whole. The best information available, from decades of estuary management as well as the scientific literature, leads us to believe that the effects of the specified activity would result in negligible impact to the California stock of harbor seals. In addition, we have prescribed the monitoring requirements necessary to ascertain whether the specified activity is having a greater (or different) than anticipated effect on marine mammals. SCWA has fortified those requirements with additional questions of interest that will lead to a robust understanding of the effects of the specified activity over time. In the future, any requests from SCWA for incidental take authorization will continue to be evaluated on the basis of the most up-to-date information available.

Description of Marine Mammals in the Area of the Specified Activity

The marine mammal species that may be harassed incidental to estuary management activities are the harbor seal, California sea lion, and the northern elephant seal. None of these species are listed as threatened or endangered under the ESA, nor are they categorized as depleted under the MMPA. We presented a more detailed discussion of the status of these stocks and their occurrence in the action area in the notice of the proposed IHA (78 FR 14985, March 8, 2013).

Potential Effects of the Specified Activity on Marine Mammals

We provided a detailed discussion of the potential effects of the specified activity on marine mammals in the notice of the proposed IHA (78 FR 14985, March 8, 2013). A summary of anticipated effects is provided below.

A significant body of monitoring data exists for pinnipeds at the mouth of the Russian River. Pinnipeds have co-existed with regular estuary management activity for decades, as well as with regular human use activity at the beach, and are likely habituated to human presence and activity. Nevertheless, SCWA's estuary management activities have the potential to harass pinnipeds present on the beach. During breaching operations, past monitoring has revealed that some or all of the seals present typically move or flush from the beach in response to the presence of crew and equipment, though some may remain hauled-out. No stampeding of seals—a potentially dangerous occurrence in which large numbers of animals succumb to mass panic and rush away from a stimulus—has been documented since SCWA developed protocols to prevent such events in 1999. While it is likely impossible to conduct required estuary management activities without provoking some response in hauled-out animals, precautionary mitigation measures, described later in this document, ensure that animals are gradually apprised of human approach. Under these conditions, seals typically exhibit a continuum of responses, beginning with alert movements (e.g., raising the head), which may then escalate to movement away from the stimulus and possible flushing into the water. Flushed seals typically re-occupy the haul-out within minutes to hours of the stimulus. In addition, eight other haul-outs exist nearby that may accommodate flushed seals. In the absence of appropriate mitigation measures, it is possible that pinnipeds could be subject to injury, serious injury, or mortality, likely through stampeding or abandonment of pups.

California sea lions and northern elephant seals, which have been noted only infrequently in the action area, have been observed as less sensitive to stimulus than harbor seals during monitoring at numerous other sites. For example, monitoring of pinniped disturbance as a result of abalone research in the Channel Islands showed that while harbor seals flushed at a rate of 69 percent, California sea lions flushed at a rate of only 21 percent. The rate for elephant seals declined to 0.1 percent (VanBlaricom, 2011). In the unlikely event that either of these species is present during management activities, they would be expected to display a minimal reaction to maintenance activities—less than that expected of harbor seals.

Although the Jenner haul-out is not known as a primary pupping beach, harbor seal pups have been observed during the pupping season; therefore, we have evaluated the potential for injury, serious injury or mortality to pups. There is a lack of published data regarding pupping at the mouth of the Russian River, but SCWA monitors have observed pups on the beach. No births were observed during recent monitoring, but were inferred based on signs indicating pupping (e.g., blood spots on the sand, birds consuming possible placental remains). Pup injury or mortality would be most likely to occur in the event of extended separation of a mother and pup, or trampling in a stampede. As discussed previously, no stampedes have been recorded since development of appropriate protocols in 1999. Any

California sea lions or northern elephant seals present would be independent juveniles or adults; therefore, analysis of impacts on pups is not relevant for those species. Pups less than one week old are characterized by being up to 15 kg, thin for their body length, or having an umbilicus or natal pelage.

Similarly, the period of mother-pup bonding, critical time needed to ensure pup survival and maximize pup health, is not expected to be impacted by estuary management activities. Harbor seal pups are extremely precocious, swimming and diving immediately after birth and throughout the lactation period, unlike most other phocids which normally enter the sea only after weaning (Lawson and Renouf, 1985; Cottrell *et al.,* 2002; Burns *et al.,* 2005). Lawson and Renouf (1987) investigated harbor seal mother-pup bonding in response to natural and anthropogenic disturbance. In summary, they found that the most critical bonding time is within minutes after birth. Although pupping season is defined as March 15–June 30, the peak of pupping season is typically concluded by mid-May, when the lagoon management period begins. As such, it is expected that most mother-pup bonding would likely be concluded as well. The number of management events during the months of March and April has been relatively low in the past, and the breaching activities occur in a single day over several hours. In addition, mitigation measures described later in this document further reduce the likelihood of any impacts to pups, whether through injury or mortality or interruption of mother-pup bonding.

Therefore, based on a significant body of site-specific monitoring data, harbor seals are unlikely to sustain any harassment that may be considered biologically significant. Individual animals would, at most, flush into the water in response to maintenance activities but may also simply become alert or move across the beach away from equipment and crews. We have determined that impacts to hauled-out pinnipeds during estuary management activities would be behavioral harassment of limited duration (i.e., less than one day) and limited intensity (i.e., temporary flushing at most). Stampeding, and therefore injury or mortality, is not expected—nor been documented—in the years since appropriate protocols were established (see ''Mitigation'' for more details). Further, the continued, and increasingly heavy, use of the haul-out despite decades of breaching events indicates that abandonment of the haul-out is unlikely.

Anticipated Effects on Habitat

We provided a detailed discussion of the potential effects of this action on marine mammal habitat in the notice of the proposed IHA (78 FR 14985, March 8, 2013). SCWA's estuary management activities will result in temporary physical alteration of the Jenner haul-out. With barrier beach closure, seal usage of the beach haul-out declines, and the three nearby river haul-outs may not be available for usage due to rising water surface elevations. Breaching of the barrier beach, subsequent to the temporary habitat disturbance, will likely increase suitability and availability of habitat for pinnipeds. Biological and water quality monitoring will not physically alter pinniped habitat. In summary, there will be temporary physical alteration of the beach. However, natural opening and closure of the beach results in the same impacts to habitat; therefore, seals are likely adapted to this cycle. In addition, the increase in rearing habitat quality has the goal of increasing salmon abundance, ultimately providing more food for seals present within the action area.

Summary of Previous Monitoring

SCWA complied with the mitigation and monitoring required under the previous authorization. In accordance with the 2012 IHA, SCWA submitted a Report of Activities and Monitoring Results, covering the period of January 1 through December 31, 2012. Previous monitoring reports provided additional analysis of monitoring results from 2009–11. In January 2012, the barrier beach was artificially breached after two days of breaching activity. There were also several periods over the course of the year where the barrier beach closed or became naturally perched and then subsequently breached naturally. In 2011 no water level management activities occurred. In 2010 one lagoon management event and two artificial breaching events occurred. Pinniped monitoring occurred the day before, the day of, and the day after each water level management activity. In 2009 eleven artificial breaching events occurred. Pinniped monitoring occurred during each breaching event. In addition, SCWA conducted biological and physical monitoring as described previously. During the course of these activities, SCWA did not exceed the take levels authorized under the relevant IHAs. We provided a detailed description of previous monitoring results in the notice of the proposed IHA (78 FR 14985, March 8, 2013).

Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must 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 its 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.

SCWA will continue the following mitigation measures, as implemented during the previous IHA, designed to minimize impact to affected species and stocks:

- SCWA crews will cautiously approach the haul-out ahead of heavy equipment to minimize the potential for sudden flushes, which may result in a stampede—a particular concern during pupping season.
- SCWA staff will avoid walking or driving equipment through the seal haul-out.
- Crews on foot will make an effort to be seen by seals from a distance, if possible, rather than appearing suddenly at the top of the sandbar, again preventing sudden flushes.
- During breaching events, all monitoring will be conducted from the overlook on the bluff along Highway 1 adjacent to the haul-out in order to minimize potential for harassment.
- A water level management event may not occur for more than two consecutive days unless flooding threats cannot be controlled.

In addition, SCWA will continue mitigation measures specific to pupping season (March 15–June 30), as implemented in the previous IHA:

- SCWA will maintain a 1 week no-work period between water level management events (unless flooding is an immediate threat) to allow for an adequate disturbance recovery period. During the no-work period, equipment must be removed from the beach.
- If a pup less than 1 week old is on the beach where heavy machinery will be used or on the path used to access the work location, the management action will be delayed until the pup has left the site or the latest day possible to prevent flooding while still maintaining suitable fish rearing habitat. In the event that a pup remains present on the beach in the presence of flood risk, SCWA will consult with us to determine the appropriate course of action. SCWA will coordinate with the locally established seal monitoring program (Stewards' Seal Watch) to determine if pups less than 1 week old are on the beach prior to a breaching event.

• Physical and biological monitoring will not be conducted if a pup less than 1 week old is present at the monitoring site or on a path to the site.

Equipment will be driven slowly on the beach and care will be taken to minimize the number of shutdowns and start-ups when the equipment is on the beach. All work will be completed as efficiently as possible, with the smallest amount of heavy equipment possible, to minimize disturbance of seals at the haul-out. Boats operating near river haul-outs during monitoring will be kept within posted speed limits and driven as far from the haul-outs as safely possible to minimize flushing seals.

We have carefully evaluated the applicant's mitigation measures as proposed and considered their effectiveness in past implementation, to determine whether they are likely to effect the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures includes consideration of the following factors in relation to one another: (1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals, (2) the proven or likely efficacy of the specific measure to minimize adverse impacts as planned; (3) the practicability of the measure for applicant implementation, including consideration of personnel safety, and practicality of implementation.

Injury, serious injury, or mortality to pinnipeds would likely result from startling animals inhabiting the haul-out into a stampede reaction, or from extended mother-pup separation as a result of such a stampede. Long-term impacts to pinniped usage of the haul-out could result from significantly increased presence of humans and equipment on the beach. To avoid these possibilities, we have worked with SCWA to develop the previously described mitigation measures. These are designed to reduce the possibility of startling pinnipeds, by gradually apprising them of the presence of humans and equipment on the beach, and to reduce the possibility of impacts to pups by eliminating or altering management activities on the beach when pups are present and by setting limits on the frequency and duration of events during pupping season. During the past twelve years of flood control management, implementation of similar mitigation measures has resulted in no known stampede events and no known injury, serious injury, or mortality. Over the course of that time period, management events have generally been infrequent and of limited duration. Based upon the SCWA's record of management at the mouth of the Russian River, as well as information from monitoring SCWA's implementation of the improved mitigation measures as prescribed under the previous IHA, we have determined that the mitigation measures included in the final IHA provide the means of effecting the least practicable adverse impacts on marine mammal species or stocks and their habitat.

Monitoring and Reporting

In order to issue an ITA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must 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 IHAs 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.

The applicant has developed a Pinniped Monitoring Plan which describes the proposed monitoring efforts. The purpose of this monitoring plan, which is carried out collaboratively with the Stewards of the Coasts and Redwoods (Stewards) organization, is to detect the response of pinnipeds to estuary management activities at the Russian River estuary. SCWA has designed the plan both to satisfy the requirements of the IHA, and to address the following questions of interest:

1. Under what conditions do pinnipeds haul out at the Russian River estuary mouth at Jenner?

2. How do seals at the Jenner haul-out respond to activities associated with the construction and maintenance of the lagoon outlet channel and artificial breaching activities?

3. Does the number of seals at the Jenner haul-out significantly differ from historic averages with formation of a summer (May 15 to October 15) lagoon in the Russian River estuary?

4. Are seals at the Jenner haul-out displaced to nearby river and coastal haul-outs when the mouth remains closed in the summer?

In summary, monitoring includes the following:

Baseline Monitoring

Seals at the Jenner haul-out are counted twice monthly for the term of the IHA. This baseline information will provide SCWA with details that may help to plan estuary management activities in the future to minimize pinniped interaction. This census begins at local dawn and continues for 8 hours. All seals hauled out on the beach are counted every 30 minutes from the overlook on the bluff along Highway 1 adjacent to the haul-out using high powered spotting scopes. Monitoring may conclude for the day if weather conditions affect visibility (e.g., heavy fog in the afternoon). Counts are scheduled for 2 days out of each month, with the intention of capturing a low and high tide each in the morning and afternoon. Depending on how the sandbar is formed, seals may haul out in multiple groups at the mouth. At each 30-minute count, the observer indicates where groups of seals are hauled out on the sandbar and provides a total count for each group. If possible, adults and pups are counted separately.

In addition to the census data, disturbances of the haul-out are recorded. The method for recording disturbances follows those in Mortenson (1996). Disturbances will be recorded on a three-point scale that represents an increasing seal response to the disturbance. The time, source, and duration of the disturbance, as well as an estimated distance between the source and haul-out, are recorded. It should be noted that only responses falling into Mortenson's Levels 2 and 3 (i.e., movement or flight) will be considered as harassment under the MMPA. Weather conditions are recorded at the beginning of each census. These include temperature, percent cloud cover, and wind speed (Beaufort scale). Tide levels and estuary water surface elevations are correlated to the monitoring start and end times.

In an effort towards understanding possible relationships between use of the Jenner haul-out and nearby coastal and river haul-outs, several other haul-outs on the coast and in the Russian River estuary are monitored as well. The peripheral haul-outs are visited for 10-minute counts twice during each baseline monitoring day. All pinnipeds hauled out were counted from the same vantage point(s) at each haul-out using a high-powered spotting scope or binoculars.

Estuary Management Event Monitoring

Activities associated with artificial breaching or initial construction of the outlet channel, as well as the maintenance of the channel that may be required, will be monitored for disturbances to the seals at the Jenner haul-out. A 1-day pre-event channel survey will be made within 1–3 days prior to constructing the outlet channel.

The haul-out will be monitored on the day the outlet channel is constructed and daily for up to the maximum 2 days allowed for channel excavation activities. Monitoring will also occur on each day that the outlet channel is maintained using heavy equipment for the duration of the lagoon management period. Monitoring will correspond with that described under the ''Baseline'' section previously, with the exception that management activity monitoring duration is defined by event duration, rather than being set at 8 hours. On the day of the management event, pinniped monitoring begins at least 1 hour prior to the crew and equipment accessing the beach work area and continues through the duration of the event, until at least 1 hour after the crew and equipment leave the beach.

In an attempt to understand whether seals from the Jenner haul-out are displaced to coastal and river haul-outs nearby when management events occur, other nearby haul-outs are monitored concurrently with event monitoring. This provides an opportunity to qualitatively assess whether these haul-outs are being used by seals displaced from the Jenner haul-out. This monitoring will not provide definitive results regarding displacement to nearby coastal and river haul-outs, as individual seals are not marked, but is useful in tracking general trends in haul-out use during disturbance. As volunteers are required to monitor these peripheral haul-outs, haul-out locations may need to be prioritized if there are not enough volunteers available. In that case, priority will be assigned to the nearest haul-outs (North Jenner and Odin Cove), followed by the Russian River estuary haul-outs, and finally the more distant coastal haul-outs.

For all counts, the following information will be recorded in thirty minute intervals: (1) Pinniped counts, by species; (2) behavior; (3) time, source and duration of any disturbance; (4) estimated distances between source of disturbance and pinnipeds; (5) weather conditions (e.g., temperature, wind); and (5) tide levels and estuary water surface elevation.

Monitoring During Pupping Season—As described previously, the pupping season is defined as March 15 to June 30. Baseline, lagoon outlet channel, and artificial breaching monitoring during the pupping season will include records of neonate (pups less than 1 week old) observations. Characteristics of a neonate pup include: Body weight less than 15 kg; thin for their body length; an umbilicus or natal pelage present; wrinkled skin; and awkward or jerky movements on land. SCWA will coordinate with the Seal Watch monitoring program to determine if pups less than 1 week old are on the beach prior to a water level management event.

If, during monitoring, observers sight any pup that might be abandoned, SCWA will contact the NMFS stranding response network immediately and also report the incident to NMFS' Southwest Regional Office and NMFS Office of Protected Resources within 48 hours. Observers will not approach or move the pup. Potential indications that a pup may be abandoned are no observed contact with adult seals, no movement of the pup, and the pup's attempts to nurse are rebuffed.

Reporting

SCWA is required to submit a report on all activities and marine mammal monitoring results to the Office of Protected Resources, NMFS, and the Southwest Regional Administrator, NMFS, 90 days prior to the expiration of the IHA if a renewal is sought, or within 90 days of the expiration of the permit otherwise. This annual report will also be distributed to California State Parks and Stewards, and would be available to the public on SCWA's Web site. This report will contain the following information:

- The number of seals taken, by species and age class (if possible);
- Behavior prior to and during water level management events;
- Start and end time of activity;
- Estimated distances between source and seals when disturbance occurs;
- Weather conditions (e.g., temperature, wind, etc.);
- Haul-out reoccupation time of any seals based on post activity monitoring;
- Tide levels and estuary water surface elevation; and
- Seal census from bi-monthly and nearby haul-out monitoring.

The annual report includes descriptions of monitoring methodology, tabulation of estuary management events, summary of monitoring results, and discussion of problems noted and proposed remedial measures. SCWA will report any injured or dead marine mammals to NMFS' Southwest Regional Office and NMFS Office of Protected Resources.

Estimated Take by Incidental Harassment

We are authorizing SCWA to take harbor seals, California sea lions, and northern elephant seals, by Level B harassment only, incidental to estuary management activities. These activities, involving increased human presence and the use of heavy equipment and support vehicles, are expected to harass pinnipeds present at the haul-out through behavioral disturbance only. In addition, monitoring activities prescribed in the BiOp may result in harassment of additional individuals at the Jenner haul-out and at the three haul-outs located in the estuary. Estimates of the number of harbor seals, California sea lions, and northern elephant seals that may be harassed by the activities is based upon the number of potential events associated with Russian River estuary management activities and the average number of individuals of each species that are present during conditions appropriate to the activity. As described previously in this document, monitoring effort at the mouth of the Russian River has shown that the number of seals utilizing the haul-out declines during bar-closed conditions. Tables 1 and 2 detail the total number of authorized takes. Methodology of take estimation was discussed in detail in our notice of proposed IHA (78 FR 14985, March 8, 2013).

TABLE 1—ESTIMATED NUMBER OF HARBOR SEAL TAKES RESULTING FROM RUSSIAN RIVER ESTUARY MANAGEMENT ACTIVITIES

Number of animals expected to occur [a]	Number of events [b c]	Potential total number of individual animals that may be taken
Lagoon Outlet Channel Management (May 15 to October 15)		
Implementation: 120 [d] Maintenance and Monitoring: May: 103 June: 120	Implementation: 3 Maintenance: May: 1 June–Sept: 4/month	Implementation: 360. Maintenance: 1,213.

TABLE 1—ESTIMATED NUMBER OF HARBOR SEAL TAKES RESULTING FROM RUSSIAN RIVER ESTUARY MANAGEMENT ACTIVITIES—Continued

Number of animals expected to occur [a]	Number of events [b c]	Potential total number of individual animals that may be taken
July: 117	Oct: 1	
Aug: 17 Sept: 18	Monitoring: June–Sept: 2/month	Monitoring: 566.
Oct: 22	Oct: 1	Total: 2,139.
Artificial Breaching		
Oct: 22 Nov: 11 Dec: 42 Jan: 32 Feb: 83 Mar: 135 Apr: 173 May: 103	Oct: 2 Nov: 2 Dec: 2 Jan: 1 Feb: 1 Mar: 1 Apr: 1 May: 1	Oct: 44. Nov: 22. Dec: 84. Jan: 32. Feb: 83. Mar: 135. Apr: 173. May: 103.
	11 events maximum	Total: 676.
Topographic and Geophysical Beach Surveys		
Jan: 97 Feb: 83 Mar: 135 Apr: 143 May: 134 Jun: 149 Jul: 214 Aug: 112 Sep: 63 Oct: 50 Nov: 106 Dec: 42	1 topographic survey/month 2 geophysical surveys/month, Sep–Dec; 1/month, Jul–Aug, Jan–Feb Surveys considered to have potential for take of 10 percent of animals present	Jan: 20. Feb: 16. Mar: 14. Apr: 14. May: 13. Jun: 15. Jul: 42. Aug: 22. Sep: 18. Oct: 15. Nov: 33. Dec: 12.
		Total: 234.
Biological and Physical Habitat Monitoring in the Estuary		
1 [e]	81	81
Total		3,130

[a] For Lagoon Outlet Channel Management and Artificial Breaching, average daily number of animals corresponds with data from Table 2. For Topographic and Geophysical Beach Surveys, average daily number of animals corresponds with 2009–12 data from Table 1. Exceptions include the months of February and March, for which there are no data on bar-closed conditions, and December, when the few bar-closed surveys have resulted in a zero average. For this latter, the more conservative value was used.

[b] For implementation of the lagoon outlet channel, an event is defined as a single, two-day episode. It is assumed that the same individual seals would be hauled out during a single event. For the remaining activities, an event is defined as a single day on which an activity occurs. Some events may include multiple activities.

[c] Number of events for artificial breaching derived from historical data. The average number of events for each month was rounded up to the nearest whole number; estimated number of events for December was increased from one to two because multiple closures resulting from storm events have occurred in recent years during that month. These numbers likely represent an overestimate, as the average annual number of events is six.

[d] Although implementation could occur at any time during the lagoon management period, the highest daily average per month from the lagoon management period was used.

[e] Based on past experience, SCWA expects that no more than one seal may be present, and thus have the potential to be disturbed, at each of the three river haul-outs.

TABLE 2—ESTIMATED NUMBER OF CALIFORNIA SEA LION AND ELEPHANT SEAL TAKES RESULTING FROM RUSSIAN RIVER ESTUARY MANAGEMENT ACTIVITIES

Species	Number of animals expected to occur [a]	Number of events [a]	Potential total number of individual animals that may be taken
Lagoon Outlet Channel Management (May 15 to October 15)			
California sea lion (potential to encounter once per event)	1	6	6
Northern elephant seal (potential to encounter once per event)	1	6	6

TABLE 2—ESTIMATED NUMBER OF CALIFORNIA SEA LION AND ELEPHANT SEAL TAKES RESULTING FROM RUSSIAN RIVER ESTUARY MANAGEMENT ACTIVITIES—Continued

Species	Number of animals expected to occur [a]	Number of events [a]	Potential total number of individual animals that may be taken
Artificial Breaching			
California sea lion (potential to encounter once per event, Sep–Apr)	1	8	8
Northern elephant seal (potential to encounter once per event, Dec–Mar)	1	8	8
Topographic and Geophysical Beach Surveys			
California sea lion (potential to encounter once per event, Sep–Apr)	1	20	20
Northern elephant seal (potential to encounter once per event, Dec–Mar)	1	20	20
Biological and Physical Habitat Monitoring in the Estuary			
California sea lion (potential to encounter once per event, Sep–Apr)	1	8	8
Northern elephant seal (potential to encounter once per event, Dec-Mar)	1	8	8
Total:			
California sea lion			42
Elephant seal			42

[a] SCWA expects that California sea lions and/or northern elephant seals could occur during any month of the year, but that any such occurrence would be infrequent and unlikely to occur more than once per month.

Negligible Impact and Small Numbers Analysis and Determination

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.'' In determining whether or not authorized incidental take will have a negligible impact on affected species stocks, we consider a number of criteria regarding the impact of the proposed action, including the number, nature, intensity, and duration of Level B harassment take that may occur. Although SCWA's estuary management activities may harass pinnipeds hauled out at the mouth of the Russian River, as well as those hauled out at several locations in the estuary during recurring monitoring activities, impacts are occurring to a small, localized group of animals. No mortality or injury is anticipated, nor will the action result in long-term impacts such as permanent abandonment of the haul-out. Seals will likely become alert or, at most, flush into the water in reaction to the presence of crews and equipment on the beach. However, breaching the sandbar has been shown to increase seal abundance on the beach, with seals quickly re-inhabiting the haul-out following cessation of activity. In addition, the implementation of the lagoon management plan may provide increased availability of prey species (salmonids). No impacts are expected at the population or stock level.

No pinniped stocks known from the action area are listed as threatened or endangered under the ESA or determined to be strategic or depleted under the MMPA. Recent data suggests that harbor seal populations have reached carrying capacity; populations of California sea lions and northern elephant seals in California are also considered healthy.

The number of animals authorized to be taken for each species of pinnipeds can be considered small relative to the population size. There are an estimated 30,196 harbor seals in the California stock, 296,750 California sea lions, and 124,000 northern elephant seals in the California breeding population. Based on extensive monitoring effort specific to the affected haul-out and historical data on the frequency of the specified activity, we are authorizing take, by Level B harassment only, of 3,130 harbor seals, 42 California sea lions, and 42 northern elephant seals, representing 10.4, 0.01, and 0.03 percent of the populations, respectively. However, this represents an overestimate of the number of individuals harassed over the duration of the proposed IHA, because the take estimates include multiple instances of harassment to a given individual.

California sea lion and elephant seal pups are not known to occur within the action area and thus will not be affected by the specified activity. The action is not likely to cause injury or mortality to any harbor seal pup, nor will it impact mother-pup bonding. The peak of harbor seal pupping season occurs during May, when few management activities are anticipated. However, the pupping season has been conservatively defined as March 15–June 30 for mitigation purposes, and any management activity that is required during pupping season will be delayed in the event that a pup less than one week old is present on the beach. As described previously in this document, harbor seal pups are precocious, and mother-pup bonding is likely to occur within minutes. Delay of events will further ensure that mother-pup bonding is not likely to be interfered with.

Based on the foregoing analysis, behavioral disturbance to pinnipeds at the mouth of the Russian River will be of low intensity and limited duration. To ensure minimal disturbance, SCWA will implement the mitigation measures described previously, which we have determined will serve as the means for effecting the least practicable adverse effect on marine mammals stocks or populations and their habitat. We find that SCWA's estuary management activities will result in the incidental take of small numbers of marine mammals, and that the authorized number of takes will have no more than a negligible impact on the affected species and stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

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

Endangered Species Act (ESA)

There are no ESA-listed marine mammals found in the action area; therefore, no consultation under the ESA is required for such species. As described elsewhere in this document, SCWA and the Corps consulted with NMFS under section 7 of the ESA regarding the potential effects of their operations and maintenance activities, including SCWA's estuary management program, on ESA-listed salmonids. As a result of this consultation, NMFS issued the Russian River Biological Opinion (NMFS, 2008), including Reasonable and Prudent Alternatives, which prescribes modifications to SCWA's estuary management activities. The effects of the proposed activities and authorized take would not cause additional effects for which section 7 consultation would be required.

National Environmental Policy Act (NEPA)

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), as implemented by the regulations published by the Council on Environmental Quality (40 CFR parts 1500–1508), and NOAA Administrative Order 216–6, we prepared an Environmental Assessment (EA) to consider the direct, indirect and cumulative effects to the human environment resulting from issuance of the original IHA to SCWA for the specified activities and found that it would not result in any significant impacts to the human environment. We signed a Finding of No Significant Impact (FONSI) on March 30, 2010. We have reviewed SWCA's application for a renewed IHA for ongoing estuary management activities for 2013 and the 2012 monitoring report. Based on that review, we have determined that the proposed action follows closely the IHAs issued and implemented in 2010–12 and does not present any substantial changes, or significant new circumstances or information relevant to environmental concerns which would require a supplement to the 2010 EA or preparation of a new NEPA document. Therefore, we have determined that a new or supplemental EA or Environmental Impact Statement is unnecessary, and reaffirm the existing FONSI for this action. The 2010 EA and FONSI for this action are available for review at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*.

Determinations

We have determined that the impact of conducting the specific estuary management activities described in this notice and in the IHA request in the specific geographic region in Sonoma County, California may result, at worst, in a temporary modification in behavior (Level B harassment) of small numbers of marine mammals. Further, this activity is expected to result in a negligible impact on the affected species or stocks of marine mammals. The provision requiring that the activity not have an unmitigable impact on the availability of the affected species or stock of marine mammals for subsistence uses is not implicated for this action.

Authorization

As a result of these determinations, we have issued an IHA to SCWA to conduct estuary management activities in the Russian River from the period of April 21, 2013, through April 20, 2014, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: April 16, 2013.

Helen M. Golde,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

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BILLING CODE 3510–22–P

COURT SERVICES AND OFFENDER SUPERVISION AGENCY

Agency Information Collection Activities: Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Court Services and Offender Supervision Agency, CSOSA.

ACTION: Notice and request for comments.

SUMMARY: As part of a federal government-wide effort to streamline the process to seek feedback from the public on service delivery, CSOSA is seeking comment on the development of the following proposed Generic Information Collection Request (Generic ICR): ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery '' for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). This notice announces our intent to submit this collection to OMB for approval and solicit comments on specific aspects for the proposed information collection.

DATES: Consideration will be given to all comments received by June 21, 2013.

ADDRESSES: You may submit written comments, identified by ''Collection of Qualitative Feedback on Agency Service Delivery'' to: Rorey Smith, Deputy General Counsel and Chief Privacy Officer, Office of General Counsel, Court Services and Offender Supervision Agency, 633 Indiana Avenue NW., Room 1380, Washington, DC 20004 or to *Rorey.Smith@csosa.gov*, Fax: (202) 220–5315.

Comments submitted in response to this notice may be made available to the public. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and may be made available on the Internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: Rorey Smith, Deputy General Counsel and Chief Privacy Officer, Office of General Counsel, Court Services and Offender Supervision Agency, 633 Indiana Avenue NW., Room 1380, Washington, DC 20004, (202) 220–5797 or to *Rorey.Smith@csosa.gov*.

For content support: Diane Bradley, Assistant General Counsel, Office of General Counsel, Court Services and Offender Supervision Agency, 633 Indiana Avenue NW., Room 1375, Washington, DC 20004, (202) 220–5364 or to *Diane.Bradley@csosa.gov*.

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they collect or sponsor. Section 3506(c)(2)(A) of the PRA (944 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 of information to OMB for approval. To comply with this

requirement, CSOSA is publishing notice of the proposed collection of information set forth in this document. The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

1. The collections are voluntary;
2. The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the federal government;
3. The collections are non-controversial and do not raise issues of concern to other federal agencies;
4. Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
5. Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
6. Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;
7. Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
8. Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Current Actions: New collection of information.

Type of Review: New Collection.

(1) *Affected Public:* Individuals currently or recently under court-ordered supervision by CSOSA. CSOSA stakeholders including members of the community (e.g., DC residents who attend CSOSA community justice advisory network meetings) and criminal justice systems (e.g., judges, parole commissioners, etc.).

Estimated Number of Respondents: 1340.

Below we provide projected average estimates for the next three years:

Average Expected Annual Number of activities: 3.

Average number of Respondents per Activity: 447.

Annual responses: 1340.

Frequency of Response: Once per request.

Average minutes per response: 7.

Burden hours: 145.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and 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.

Dated: April 16, 2013.

Rorey Smith,

Deputy General Counsel, Court Services and Offender Supervision Agency.

[FR Doc. 2013–09371 Filed 4–19–13; 8:45 am]

BILLING CODE 3129–04–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–OS–0086]

Proposed Collection; Comment Request

AGENCY: Office of the Inspector General, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork*

Reduction Act of 1995, the Office of the Inspector General, Department of Defense 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 21, 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 the Office of Communications and Congressional Liaison, Office of Inspector General, Department of Defense, 4800 Mark Center Drive, Suite 15F26, Alexandria, VA 22350–1500; ATTN: Bridget Serchak or call 703–604–2028.

Title; Associated Form; and OMB Number: DoDIG Generic Survey Collection; OMB Control Number 0704–TBD.

Needs and Uses: The information collection requirement is necessary to obtain customer satisfaction metrics from users of the organization's Web site, *www.dodig.mil* and those engaged by public affairs and social media initiatives. This collection is necessary for DoD IG's compliance with *OMB Digital Strategy Milestone 8.2* and will enable the organization to make data-driven decisions on service performance and increase customer satisfaction.

Affected Public: Individuals and Households.

Annual Burden Hours: 1000.

Number of Respondents: 6000.

Responses per Respondent: 1.

Average Burden per Response: 10 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents will be users of the Web site *www.dodig.mil* and/or audiences of public affairs and social media outreach. Data collections will be in the form of brief online surveys querying on customer satisfaction regarding outreach efforts. The surveys will examine the overall customer experience, perceived ability to obtain the desired or needed information or service, likelihood of continued use, likelihood of recommending use to others, and other open-ended qualitative feedback. The surveys will be voluntary and users must actively choose to participate. No personally identifiable information (PII) or confidential information will be collected. DoDIG will conduct two surveys per year, for a total of six surveys over the three-year period of the generic clearance. The topics of surveys that will be conducted include:

• Web site Feedback—Online surveys assessing user experience for *www.dodig.mil.* Questions will focus on data required to collect by the White House Digital Strategy Requirements.

• Social Media Outreach—Querying users on social media preferences in order to improve outreach using these platforms.

• Report Dissemination—Studying the means by which users find and would prefer to find DoDIG reports.

• Customer Perception of Organizational Identity—Examining how the customer perceives DoD IG and their awareness of its activities and contributions.

The conclusions drawn from these data collections will be essential for gauging effectiveness of communication efforts and improving customer satisfaction.

Dated: April 12, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–09346 Filed 4–19–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: Under the provisions of 10 U.S.C. 175 and 10301, the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b) (''the Sunshine Act), and 41 CFR 102–3.50(a), the Department of Defense (DoD) gives notice that it is renewing the charter for the Reserve Forces Policy Board (''the Board'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: The Board is a non-discretionary Federal advisory committee that shall serve as an independent adviser to the Secretary of Defense to provide advice and recommendations to the Secretary on strategies, policies, and practices designed to improve and enhance the capabilities, efficiency, and effectiveness of the reserve components. The Board may act on those matters referred to it by the Chairman and on any matter raised by a member of the Board or the Secretary of Defense. The Board shall report to the Secretary of Defense. The Under Secretary of Defense for Personnel and Readiness (USD(P&R)) may act upon the Board's advice and recommendations.

The Department of Defense (DoD), through the office of the USD(P&R) shall provide support as deemed necessary, for the Board's performance and shall ensure compliance with the requirement of FACA, the Sunshine Act, governing Federal statutes and regulations, and established policies and procedures.

The Board consists of 20 members, appointed or designated as follows:

a. A civilian appointed by the Secretary of Defense from among persons determined by the Secretary to have the knowledge of, and experience in, policy matters relevant to national security and reserve component matters

necessary to carry out the duties of chair of the Board, who shall serve as chair of the Board.

b. Two active or retired reserve officers or enlisted members designated by the Secretary of Defense upon the recommendation of the Secretary of the Army:

1. One of whom shall be a member of the Army National Guard of the United States or a former member of the Army National Guard of the United States in the Retired Reserve; and

2. One of whom shall be a member or retired member of the Army Reserve.

c. Two active or retired reserve officers or enlisted members designated by the Secretary of Defense upon recommendation of the Secretary of the Navy:

1. One of whom shall be an active or retired officer of the Navy Reserve; and

2. One of whom shall be an active or retired officer of the Marine Corps Reserve.

d. Two active or retired reserve officers or enlisted members designated by the Secretary of Defense upon the recommendation of the Secretary of the Air Force:

1. One of whom shall be a member of the Air National Guard of the United States or a former member of the Air National Guard of the United States in the Retired Reserve; and

2. One of whom shall be a member or retired member of the Air Force Reserve.

e. One active or retired reserve officer or enlisted member of the U.S. Coast Guard designated by the Secretary of Homeland Security.

f. Ten persons appointed or designated by the Secretary of Defense, each of whom shall be a United States citizen having significant knowledge of and experience in policy matters relevant to national security and reserve component matters and shall be one of the following:

1. An individual not employed in any Federal or State department or agency.

2. An individual employed by a Federal or State department or agency.

3. An officer of a regular component of the armed forces on active duty, or an officer of a reserve component of the armed forces in an active status, who: (a) Is serving or has served in a senior position on the Joint Staff, the headquarters staff of a combatant command, or the headquarters staff of an armed force; and (b) Has experience in joint professional military education, joint qualification, and joint operations matters.

g. A reserve officer of the Army, Navy, Air Force, or Marine Corps who is a general or flag officer recommended by the chair and designated by the Secretary of Defense, who shall serve without vote—

1. As military adviser to the chair;

2. As military executive officer of the Board; and

3. As supervisor of the operations and staff of the Board.

h. A senior enlisted member of a reserve component recommended by the chair and designated by the Secretary of Defense, who shall serve without vote as enlisted military adviser to the chair.

Members of the Board appointed by the Secretary of Defense, who are not full-time or permanent part-time Federal employees, shall be appointed as experts and consultants under the authority of 5 U.S.C. 3109 to serve as special government employee (SGE) members. Members of the Board appointed by the Secretary of Defense, who are full-time or permanent part-time Federal employees, shall serve as regular government employee (RGE) members. All members of the Board are appointed to provide advice to the government on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Members of the Board shall serve a term of service of three years, and their appointments must be renewed by the Secretary of Defense on an annual basis. Members shall not serve more than two consecutive terms of service without approval of the Secretary of Defense.

All members of the Board will receive compensation for travel and per diem as it pertains to official business of the Board. Members of the Board who are appointed by the Secretary as SGE members will serve without compensation.

The Department, when necessary and consistent with the Board's mission and DoD policies and procedures, may establish subcommittees, task groups, and working groups to support the Board. Establishment of subcommittees will be based on a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the USD(P&R).

The Department will establish four permanent subcommittees. The subcommittees will have no more than 15 members and will normally meet once per quarter. A subcommittee Chairperson will be appointed by the Secretary of Defense. The four permanent subcommittees and their missions are:

a. Subcommittee on Creating a Continuum of Service will examine what programs and processes are key to allowing personnel to seamlessly meet DoD's requirements.

b. Subcommittee on Enhancing DoD's Role in the Homeland is focused on improving the capability and capacity of the Reserve Component to address the increasing threats to the homeland.

c. Subcommittee on Insuring a Ready, Capable, Available, and Sustainable Operational Reserve is focused on retaining the operational capability & experience within the Reserve Component to meet future threats.

d. Subcommittee on Supporting Service Members, Families & Employers assesses whether the current programs and policies are meeting the needs of an operational reserve.

Such subcommittees shall not work independently of the Board, and shall report all their recommendations and advice solely to the Board for full deliberation and discussion. Subcommittees have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Board; nor can any subcommittee or their members report directly to the DoD or any Federal officers or employees.

All subcommittee members will be appointed in the same manner as the Board members; that is, the Secretary of Defense will appoint subcommittee members even if the member in question is already a member of the Board.

Subcommittee members, if not full-time or part-time government employees, shall be appointed to serve as experts and consultants under the authority of 5 U.S.C. 3109 and to serve as special government employees. Subcommittee members shall serve a term of service of three years, and their appointments must be renewed by the Secretary of Defense on an annual basis. Subcommittee members shall not serve more than two consecutive terms of service without approval of the Secretary of Defense. With the exception of travel and per diem for official travel related to the Board or its subcommittees, subcommittee members shall serve without compensation.

Each subcommittee member is appointed to provide advice to the government on the basis of his or her best judgment without representing any particular point of view and in a manner that is free from conflict of interest.

All subcommittees operate under the provisions of FACA, the Sunshine Act, other governing Federal statutes and regulations, and governing DoD policies and procedures.

The Board shall meet at the call of the Board's Designated Federal Officer (DFO), in consultation with Board's Chairperson and the estimated number of Board meetings is four per year.

The Board's DFO, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures.

The Board's DFO is required to be in attendance at all meetings of the Board and its subcommittees for the entire duration of each and every meeting. However, in the absence of the Board's DFO, a properly approved Alternate DFO, duly appointed to the Board according to DoD policies and procedures, shall attend the entire duration of meetings of the Board or subcommittee meetings.

The DFO, or the Alternate DFO, will approve or call all of the Board's and its subcommittee meetings; prepare and approve all meeting agendas; and adjourn any meeting when the DFO, or the Alternate DFO, determines adjournment to be in the public interest or required by governing regulations or DoD policies and procedures.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to Reserve Forces Policy Board membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of Reserve Forces Policy Board.

All written statements shall be submitted to the Designated Federal Officer for the Reserve Forces Policy Board, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Reserve Forces Policy Board's DFO can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.*

The DFO, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Reserve Forces Policy Board. The DFO, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: April 16, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–09339 Filed 4–19–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Army Education Advisory Subcommittee Meeting Notice

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting.

SUMMARY: Under the provisions to the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the following Federal advisory committee meeting will take place:

Name of Committee: Board of Visitors, U.S. Army War College Subcommittee.

Dates of Meeting: May 16, 2013.

Place of Meeting: U.S. Army War College, 122 Forbes Avenue, Carlisle, PA, Command Conference Room, Root Hall, Carlisle Barracks, Pennsylvania 17013.

Time of Meeting: 8:30 a.m.—13:30 p.m.

Proposed Agenda: The purpose of the meeting is to obtain, review, and evaluate information related to the continued academic growth and development of the United States Army War College. General deliberations leading to provisional findings will be referred to the Army Education Advisory Committee for deliberation by the Committee under the open-meeting rules.

FOR FURTHER INFORMATION CONTACT: To request advance approval or obtain further information, contact Colonel Donald H. Myers, (717) 245–3907 or *donald.myers@us.army.mil.*

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Any member of the public wishing to attend this meeting should contact the Alternate Designated Federal Officer at least ten calendar days prior to the meeting for information on base entry. Individuals without a DoD Government Common Access Card require an escort at the meeting location. Attendance will be limited to those persons who have notified the Subcommittee Management Office of their intention to attend.

Filing Written Statement: Pursuant to 41 CFR 102–3.140d, the Subcommittee is not obligated to allow the public to speak, however, any member of the public wishing to provide input to the Subcommittee may submit a written statement for consideration by the U.S. Army War College Subcommittee. Written statements should be no longer than two type-written pages and must address: the issue, discussion, and a recommended course of action. Supporting documentation may also be included as needed to establish the appropriate historical context and to provide any necessary background information.

Individuals submitting a written statement must submit their statement to the Alternate Designated Federal Officer at the following address: ATTN: Alternate Designated Federal Officer, Dept. of Academic Affairs, 122 Forbes Avenue, Carlisle, PA 17013. At any point, however, if a written statement is not received at least 10 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the U.S. Army War College Subcommittee until its next open meeting.

The Alternate Designated Federal Officer will review all submissions in a timely manner with the U.S. Army War College Subcommittee Chairperson, and ensure they are provided to members of the U.S. Army War College Subcommittee before the meeting that is the subject of this notice. After reviewing the written comments, the Chairperson and the Alternate Designated Federal Officer may choose to invite the submitter of the comments to orally present their issue during an open portion of this meeting or at a future meeting.

The Alternate Designated Federal Officer, in consultation with the U.S. Army War College Subcommittee Chairperson, may, if desired, allot a specific amount of time for members of the public to present their issues for review and discussion by the U.S. Army War College Subcommittee.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2013–09356 Filed 4–19–13; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, May 22, 2013, 1:00 p.m.–5:30 p.m.

ADDRESSES: The Lodge at Santa Fe, 750 N. St. Francis Drive, Santa Fe, NM 87501.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board (NNMCAB), 94 Cities of Gold Road, Santa Fe, NM 87506. Phone (505) 995–0393; Fax (505) 989–1752 or Email: *Menice.Santistevan@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1:00 p.m. Call to Order by Deputy Designated Federal Officer (DDFO), Lee Bishop
Establishment of a Quorum: Roll Call and Excused Absences, William Alexander
Welcome and Introductions, Carlos Valdez, Chair
Approval of Agenda and March 20, 2013 Meeting Minutes
1:30 p.m. Public Comment Period
1:45 p.m. Old Business
- Written Reports
- Report from Nominating Committee (Section V.F of the Bylaws)

2:15 p.m. New Business
2:30 p.m. Update from DDFO, Lee Bishop
- Update from DOE
- Other Items

2:45 p.m. Break
3:00 p.m. Update on Upcoming Chromium Field Work, TBA
3:45 p.m. Update from Liaison Members
- Los Alamos National Laboratory, Jeffrey Mousseau
- New Mexico Environment Department, John Kieling
- Environmental Protection Agency (Region 6), Lee Bishop for Rich Mayer
- DOE, Peter Maggiore

4:45 p.m. Consideration and Action on Draft Recommendation(s) to DOE
5:15 p.m. Wrap-Up and Comments from Board Members, Carlos Valdez
5:30 p.m. Adjourn, Lee Bishop, DDFO

Public Participation: The EM SSAB, Northern New Mexico, 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 Menice Santistevan at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Menice Santistevan at the address or phone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.energy.gov/*

Issued at Washington, DC, on April 16, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–09374 Filed 4–19–13; 8:45 am]

BILLING CODE 6405–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, May 15, 2013, 5:00 p.m.

ADDRESSES: National Atomic Testing Museum, 755 E. Flamingo Road, Las Vegas, Nevada 89119.

FOR FURTHER INFORMATION CONTACT: Barbara Ulmer, Board Administrator, 232 Energy Way, M/S 505, North Las Vegas, Nevada 89030. Phone: (702) 630–0522; Fax (702) 295–5300 or Email: *NSSAB@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. Overview of the Community Environmental Monitoring Program—Work Plan Item #6.
2. Overview of the Waste Acceptance Review Panel—Work Plan Item #7.
3. Discussion and recommendation development for Corrective Action Unit 105 Yucca Flat Atmospheric Test Site Evaluation of Corrective Action Alternatives—Work Plan Item #1.
4. Discussion and recommendation development for Nevada National Security Site Integrated Groundwater Sampling Plan—Work Plan Item #8.

Public Participation: The EM SSAB, Nevada, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Barbara Ulmer at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Barbara Ulmer at the telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing to Barbara Ulmer at the address listed above or at the following Web site: *http://nv.energy.gov/nssab/MeetingMinutes.aspx.*

Issued at Washington, DC, on April 16, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–09372 Filed 4–19–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC13–90–000.
Applicants: JPM Capital Corporation.
Description: Section 203 Application for Disposition of Jurisdictional

Facilities, et al. of JPM Capital Corporation.
Filed Date: 4/11/13.
Accession Number: 20130411–5136.
Comments Due: 5 p.m. ET 5/2/13.

Docket Numbers: EC13–91–000.
Applicants: Florida Power & Light Company.
Description: Application for Authorization of Merger and Acquisition of Generation Assets of Florida Power & Light Company.
Filed Date: 4/12/13.
Accession Number: 20130412–5169.
Comments Due: 5 p.m. ET 5/3/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–4486–003.
Applicants: ITC Midwest LLC.
Description: Compliance Filing of ITC Midwest LLC to be effective 11/9/2011.
Filed Date: 4/12/13.
Accession Number: 20130412–5068.
Comments Due: 5 p.m. ET 5/3/13.

Docket Numbers: ER13–1135–001.
Applicants: Piedmont Energy Fund, LP.
Description: FERC Electric Tariff No. 1—Amended to be effective 4/22/2014.
Filed Date: 4/12/13.
Accession Number: 20130412–5097.
Comments Due: 5 p.m. ET 5/3/13.

Docket Numbers: ER13–1265–000.
Applicants: PacifiCorp.
Description: Termination of PAC Energy Engineering & Procurement Agreement to be effective 6/25/2013.
Filed Date: 4/12/13.
Accession Number: 20130412–5082.
Comments Due: 5 p.m. ET 5/3/13.

Docket Numbers: ER13–1266–000.
Applicants: CalEnergy, LLC.
Description: CalEnergy FERC MBR Tariff Application to be effective 6/3/2013.
Filed Date: 4/12/13.
Accession Number: 20130412–5129.
Comments Due: 5 p.m. ET 5/3/13.

Docket Numbers: ER13–1267–000.
Applicants: CE Leathers Company.
Description: CE Leathers FERC MBR Tariff Application to be effective 6/3/2013.
Filed Date: 4/12/13.
Accession Number: 20130412–5131.
Comments Due: 5 p.m. ET 5/3/13.

Docket Numbers: ER13–1268–000.
Applicants: Del Ranch Company.
Description: Del Ranch Company MBR Tariff Application to be effective 6/3/2013.
Filed Date: 4/12/13.
Accession Number: 20130412–5133.
Comments Due: 5 p.m. ET 5/3/13.

Docket Numbers: ER13–1269–000.
Applicants: Elmore Company.
Description: Elmore Company MBR Tariff Application to be effective 6/3/2013.
Filed Date: 4/12/13.
Accession Number: 20130412–5136.
Comments Due: 5 p.m. ET 5/3/13.

Docket Numbers: ER13–1270–000.
Applicants: Fish Lake Power LLC.
Description: Fish Lake Power LLC MBR Tariff Application to be effective 6/3/2013.
Filed Date: 4/12/13.
Accession Number: 20130412–5137.
Comments Due: 5 p.m. ET 5/3/13.

Docket Numbers: ER13–1271–000.
Applicants: Salton Sea Power Generation Company.
Description: Salton Sea Power Generation Co MBR Tariff Application to be effective 6/3/2013.
Filed Date: 4/12/13.
Accession Number: 20130412–5141.
Comments Due: 5 p.m. ET 5/3/13.

Docket Numbers: ER13–1272–000.
Applicants: Salton Sea Power L.L.C.
Description: Salton Sea Power MBR Tariff Application to be effective 6/3/2013.
Filed Date: 4/12/13.
Accession Number: 20130412–5142.
Comments Due: 5 p.m. ET 5/3/13.

Docket Numbers: ER13–1273–000.
Applicants: Vulcan/BN Geothermal Power Company.
Description: Vulcan BN Geothermal Power Co MBR Application to be effective 6/3/2013.
Filed Date: 4/12/13.
Accession Number: 20130412–5143.
Comments Due: 5 p.m. ET 5/3/13.

Docket Numbers: ER13–1274–000.
Applicants: California Independent System Operator Corporation.
Description: 2013–04–12 Tariff Clarifications Amendment to be effective 4/15/2013.
Filed Date: 4/12/13.
Accession Number: 20130412–5146.
Comments Due: 5 p.m. ET 5/3/13.

Docket Numbers: ER13–1275–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: 2013–04–12 Index of Customers Update to be effective 6/11/2013.
Filed Date: 4/12/13.
Accession Number: 20130412–5159.
Comments Due: 5 p.m. ET 5/3/13.

Docket Numbers: ER13–1276–000.
Applicants: Pacific Gas and Electric Company.
Description: Notice of Termination of SunPower Solar Star Quinto E&P Agreement to be effective 3/28/2013.
Filed Date: 4/12/13.
Accession Number: 20130412–5161.
Comments Due: 5 p.m. ET 5/3/13.

Docket Numbers: ER13–1277–000.
Applicants: PJM Interconnection, L.L.C.
Description: Updates to PJM Operating Agreement and RAA Membership Lists to be effective 3/31/2013.
Filed Date: 4/12/13.
Accession Number: 20130412–5170.
Comments Due: 5 p.m. ET 5/3/13.

Docket Numbers: ER13–1278–000.
Applicants: PJM Interconnection, L.L.C.
Description: Revisions to the PJM OATT & OA re Market Settlement Formulation Review to be effective 6/14/2013.
Filed Date: 4/12/13.
Accession Number: 20130412–5171.
Comments Due: 5 p.m. ET 5/3/13.

Docket Numbers: ER13–1279–000.
Applicants: New England Power Company.
Description: Interconnection Agreement Between New England Power Co. and Baltic Mill to be effective 6/12/2013.
Filed Date: 4/12/13.
Accession Number: 20130412–5181.
Comments Due: 5 p.m. ET 5/3/13.

Docket Numbers: ER13–1280–000.
Applicants: California Independent System Operator Corporation.
Description: 2013–04–12 IID ABAOA Amendment to be effective 4/16/2013.
Filed Date: 4/12/13.
Accession Number: 20130412–5182.
Comments Due: 5 p.m. ET 5/3/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 12, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–09351 Filed 4–19–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP12–993–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: Rate Case Update Filing.
Filed Date: 4/11/13.
Accession Number: 20130411–5025.
Comments Due: 5 p.m. ET 4/23/13.

Docket Numbers: RP12–1100–000.
Applicants: Wyoming Interstate Company, LLC.
Description: Wyoming Interstate Company, LLC submits Operational Purchases and Sales Report.
Filed Date: 9/27/12.
Accession Number: 20120927–5208.
Comments Due: 5 p.m. ET 4/19/13.

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: April 12, 2013.

Nathaniel J. Davis, Sr.

Deputy Secretary

[FR Doc. 2013–09353 Filed 4–19–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG13–27–000.
Applicants: NRG Energy, Inc.
Description: Notice of Long Beach Generation LLC for Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 4/12/13.
Accession Number: 20130412–5189.
Comments Due: 5 p.m. ET 5/3/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–786–001.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits Compliance filing per March 15, 2013 Order in ER13–786–000 to be effective 12/21/2012.
Filed Date: 4/15/13.
Accession Number: 20130415–5106.
Comments Due: 5 p.m. ET 5/6/13.

Docket Numbers: ER13–1281–000.
Applicants: Massachusetts Electric Company.
Description: Interconnection Agreement Between Massachusetts Electric Co. and Quarry Energy to be effective 4/12/2013.
Filed Date: 4/12/13.
Accession Number: 20130412–5195.
Comments Due: 5 p.m. ET 5/3/13.

Docket Numbers: ER13–1282–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: 04–15–2013 SA 2507 Sub J233 E&P to be effective 3/1/2013.
Filed Date: 4/15/13.
Accession Number: 20130415–5055.
Comments Due: 5 p.m. ET 5/6/13.

Docket Numbers: ER13–1283–000.
Applicants: ITC Midwest LLC.
Description: Filing of CIAC Agreement of ITC Midwest to be effective 6/17/2013.
Filed Date: 4/15/13.
Accession Number: 20130415–5057.
Comments Due: 5 p.m. ET 5/6/13.

Docket Numbers: ER13–1284–000.
Applicants: ITC Midwest LLC.
Description: ITC Midwest LLC submits Filing of CIAC Agreement of ITC Midwest to be effective 5/31/2013.
Filed Date: 4/15/13.
Accession Number: 20130415–5085.
Comments Due: 5 p.m. ET 5/6/13.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES13–19–000.
Applicants: AEP Texas Central Company.
Description: Application of AEP Texas Central Company under Section 204 of the Federal Power Act for Authorization to Issue Securities.
Filed Date: 4/15/13.
Accession Number: 20130415–5081.
Comments Due: 5 p.m. ET 5/6/13.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA07–19–009; OA07–43–010; ER07–1171–010.
Applicants: Arizona Public Service Company.
Description: Arizona Public Service Company submits its annual compliance report on penalty assessments and distributions.
Filed Date: 04/12/2013.
Accession Number: 20130412–5206.
Comments Due: 5 p.m. ET 5/3/13.

Docket Numbers: OA07–39–009; OA08–71–009.
Applicants: Public Service Company of Colorado.
Description: Public Service Company of Colorado submits its annual compliance report on penalty assessments and distributions under OA07–39, et al.
Filed Date: 4/12/13.
Accession Number: 20130412–5216.
Comments Due: 5 p.m. ET 5/3/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 15, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–09352 Filed 4–19–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who

make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped chronologically, in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Exempt:

Docket No.	Filed date	Presenter or requester
1. CP13–73–000 CP13–74–000	03–13–13	FERC Staff.[1]

Dated: April 15, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–09350 Filed 4–19–13; 8:45 am]

BILLING CODE 6717–01–P

[1] FERC Staff attended meetings in Tucson, Arizona on March 13, 14, and 15, 2013.

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice: 2013–0028]

Application for Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of $100 Million: AP087891XX

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: AP087891XX.

Purpose and Use

Brief description of the purpose of the transaction:

To support the export of U.S. manufactured commercial aircraft to Canada.

Brief non-proprietary description of the anticipated use of the items being exported:

To be used for Canadian domestic passenger air service and Canadian cross-border passenger air service between Canada and Mexico, the U.S. or the Caribbean.

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: WestJet Airlines Limited.

Guarantor(s): N/A.

Description of Items Being Exported

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://www.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 17, 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–2013–0028 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–2013–0028 on any attached document.

Cristopolis A. Dieguez,

Program Specialist.

[FR Doc. 2013–09347 Filed 4–19–13; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting; Thursday, April 18, 2013

April 11, 2013.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, April 18, 2013. The meeting is scheduled to commence at 10:00 a.m. in Room TW–C305, at 445 12th Street SW., Washington, DC.

Item No.	Bureau	Subject
1	INTERNATIONAL	TITLE: Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended (IB Docket No. 11–133). SUMMARY: The Commission will consider a Second Report and Order to streamline the foreign ownership policies and procedures that apply to common carrier radio licensees and certain aeronautical radio licensees under section 310(b) of the Act, significantly reducing regulatory burdens while ensuring the Commission continues to receive the necessary information to protect the public interest.
2	WIRELINE COMPETITION.	TITLE: IP-Enabled Services (WC Docket No. 04–36); Telephone Number Requirements for IP-Enable Services Providers (WC Docket No. 07–243); Telephone Number Portability (CC Docket No. 95–116); Development a Unified Intercarrier Compensation Regime (CC Docket No. 01–92); Connect America Fund (WC Docket No. 10–90); Numbering Resource Optimization (CC Docket No. 99–200); Petition of Vonage Holdings Corp. for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Access to Numbering Resources; Petition of TeleCommunication Systems, Inc. and HBF Group, Inc. for Waiver of Part 52 of the Commission's Rules; and Numbering Policies for Modern Communications. SUMMARY: The Commission will consider a Notice of Proposed Rulemaking and Notice of Inquiry on expanding direct access to telephone numbers to promote competition and innovation by IP-based providers, while protecting consumers and the reliability of phone calls. It will also consider an Order to allow a limited trial of direct access to numbers for VoIP providers.
3	CONSUMER & GOVERNMENTAL AFFAIRS.	TITLE: Presentation on the Status of Alerts to Prevent Bill Shock. SUMMARY: Pursuant to CTIA's revision to its Code of Conduct for Wireless Service, April 17, 2013 is the deadline by which the participating CTIA member wireless carriers must provide their subscribers with four specified types of alerts to allow consumers to avoid unexpected charges for wireless usage exceeding their plan limits, and for additional charges for international roaming. The Consumer & Governmental Affairs Bureau will provide a status report of the participating carriers' compliance with this requirement.

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted, but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Additional information concerning this meeting may be obtained from Meribeth McCarrick, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the Internet from the FCC Live Web page at *www.fcc.gov/live*.

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services call (703) 993–3100 or go to *www.capitolconnection.gmu.edu*.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Best Copy and Printing, Inc. (202) 488–5300; Fax (202) 488–5563; TTY (202) 488–5562. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio and video tape. Best Copy and Printing, Inc. may be reached by email at *FCC@BCPIWEB.com*.

Federal Communications Commission.

Sheryl D. Todd,

Deputy Secretary.

[FR Doc. 2013–09337 Filed 4–18–13; 11:15 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

DATE & TIME: Thursday, April 25, 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 April 11, 2013

Draft Advisory Opinion 2012–38: Socialist Workers Party

Draft Advisory Opinion 2013–02: Dan Winslow

Draft Advance Notice of Proposed Rulemaking on Technological Modernization

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.

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2013–09563 Filed 4–18–13; 4:15 pm]

BILLING CODE 6715–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–13–0215]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and

Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send comments to Ron Otten, at 1600 Clifton Road, MS D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Application form and related forms for the operation of the National Death Index (NDI), OMB No. 0920–0215 (expires November 30, 2013)—Extension—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The purpose of this request is to obtain Office of Management and Budget (OMB) approval to extend the data collection for Application form and related forms for the operation of the National Death Index (NDI), OMB No. 0920–0215, expires 11/30/2013. Section 306 of the Public Health Service (PHS) Act (42 U.S.C.), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability of the population of the United States.

The National Death Index (NDI) is a national data base containing identifying death record information submitted annually to NCHS by all the state vital statistics offices, beginning with deaths in 1979. This request is for approval of forms used to request searches against the NDI file to obtain the states and dates of death and the death certificate numbers of deceased study subjects. The NDI Application Form is provided to all investigators who express an interest in the NDI. The Application Form is completed and submitted only by those investigators who actually decide to apply for use of the NDI services. The Request for a Repeat NDI File Search is used by those NDI users who already have an approved application on file. This form is used by researchers when they have additional study subjects that need to be identified as deceased. The final form used in the User Data Transmittal Form. The researcher uses this from when transmitting their data file to the NDI staff.

Using the NDI Plus service, researchers have the option of also receiving cause of death information for deceased subjects, thus reducing the need to request copies of death certificates from the states. The NDI Plus option currently provides the International Classification of Disease (ICD) codes for the underlying and multiple causes of death for the years 1979–2010. Health researchers must complete administrative forms in order to apply for NDI services, and submit records of study subjects for computer matching against the NDI file. A three-year clearance is requested. There is no cost to respondents except for their time. The total estimated annual burden hours are 182.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs)	Total burden (in hrs)
Researcher	Application form	50	1	2.5	125
Researcher	Repeat request form	70	1	18/60	21
Researcher	Data Transmittal	120	1	18/60	36
Total					182

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. 2013–09361 Filed 4–19–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day–13–0706]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7570 or send an email to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

National Program of Cancer Registries Program Evaluation Instrument (NPCR–PEI) (OMB No. 0920–0706, exp. 12/31/2011)—Reinstatement—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Program of Cancer Registries (NPCR), administered by the Centers for Disease Control and Prevention (CDC), was established to provide funding for states and territories to: (1) Improve existing state-based cancer registries; (2) plan and implement registries where none existed; (3) develop model legislation and regulations for states to enhance the viability of registry operations; (4) set standards for data completeness, timeliness, and quality; (5) provide training for registry personnel; and (6) help establish a computerized reporting and data-processing system. Through the NPCR, CDC currently provides cooperative agreement funding to 48 population-based central cancer registries (CCR) in 45 states, the District

of Columbia, Puerto Rico, and the Pacific Islands jurisdictions. The National Cancer Institute supports the operations of CCR in the five remaining states.

Through the NPCR, CDC provides technical assistance and sets program standards to assure that complete cancer incidence data are available for national- and state-level cancer control and prevention activities and other health planning activities. NPCR-funded CCR are the primary source of cancer surveillance data for *United States Cancer Statistics* (*USCS*), which CDC has published annually since 2002.

CDC has previously collected information from NPCR awardees to monitor their performance in meeting the required NPCR Program Standards (NPCR Program Evaluation Instrument, OMB No. 0920–0706, exp. 12/31/2011). The NPCR Program Evaluation Instrument (PEI) is a secure, web-based method of collecting information about registry operations, including: staffing, legislation, administration, reporting completeness, data exchange, data content and format, data quality assurance, data use, collaborative relationships, and advanced activities.

Since 2009, data collection had been conducted on a biennial schedule in odd-numbered years. The most recent PEI reports were submitted to CDC in 2011. In late 2011, CDC discontinued the NPCR PEI clearance in preparation for a review of NPCR program standards. At this time, CDC seeks OMB approval to reinstate the NPCR PEI clearance. Minor changes to the PEI will be implemented based on the revised NPCR standards. Additional changes incorporated into the Reinstatement request include a reduction in the estimated number of NPCR awardees (from 49 to 48) and an increase in the estimated burden per response (from 1.5 hours to 2 hours).

Information will continue to be collected electronically in odd-numbered years. OMB approval is requested for three years to support data collection in 2013 and 2015. The total number of NPCR awardees is 48. For two cycles of data collection over a three-year period, the annualized number of respondents is 32 (48+48/3=32).

The NPCR–PEI data collection is needed to evaluate, aggregate, and disseminate NPCR program information. CDC and the NPCR-funded registries will use the data to monitor progress toward meeting objectives and established program standards; to describe various attributes of the NPCR-funded registries; and to respond to inquiries about the program.

There are no costs to respondents except their time. The total estimated annualized burden hours are 64.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hr)
NPCR Awardees	PEI	32	1	2

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. 2013–09360 Filed 4–19–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–13–0743]

Proposed Data Collections Submitted for Extension of Public Comment Period

Proposed Project

Assessment and Monitoring of Breastfeeding-Related Maternity Care Practices in Intra-partum Care Facilities in the United States and Territories (OMB Control No. 0920–0743, Exp. 12/31/2011)—Reinstatement—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

SUMMARY: The Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS), is reopening the comment period, thus amending the due date for responses to its Request for Public Comments, published in Vol. 78, No. 29, of the **Federal Register** on February 12, 2013. The due date has been extended to May 3, 2013, to allow more time for review.

To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send comments to Kimberly Lane, 1600 Clifton Road, MS D–74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

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. 2013–09367 Filed 4–19–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–13–12RO]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call (404) 639–7570 or send an email to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Anniston Community Health Survey: Follow-up and Dioxin Analyses (ACHS–II)—New—Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (DHHS).

Background and Brief Description

In the past, polychlorinated biphenyls (PCBs) were used as coolants and lubricants in electrical equipment. They didn't burn easily and were good insulators. PCBs are no longer made in the U.S. They were banned in 1977 because they persist in the environment. The public and the scientific community became concerned about harm to human health from persistent exposure to PCBs.

The City of Anniston, AL, was the site of the former Monsanto facility. PCBs were made there from 1929 to 1971. For decades, PCBs were released into the local air, soil, and surface water. In 1996, residents found out they were exposed. Concerns grew and led to litigation. In 2003, a settlement in favor of the residents was reached in state and federal courts.

The Anniston Environmental Health Research Consortium (AEHRC) was funded by the Agency for Toxic Substances and Disease Registry (ATSDR). The AEHRC conducted the Anniston Community Health Survey (ACHS) from 2005 to 2007. Serum PCB levels in 766 Anniston adults were found to be three to seven times higher than in U.S. adults. Also, higher PCB levels were found in Anniston adults who had high blood pressure and diabetes.

ATSDR and National Institutes of Health (NIH) plan to continue the work of the first ACHS. These agencies will conduct a follow-up study called the ACHS–II. Data collection will be managed by the University of Alabama at Birmingham (UAB) and the Calhoun County Health Department (CCHD).

A sample of 500 surviving ACHS cohort members with PCBs measurements will be enrolled in the ACHS–II. After informed consent, clinical assessments will be done. These will be for blood pressure, height, weight, hip, and body girth. A questionnaire will be answered by computer-assisted personal interviews (CAPIs). Questions will be asked for health, demographic, diet, and lifestyle factors. The self-reported responses will be compared to laboratory analytes. For these, blood samples will be drawn and analyzed.

The ACHS–II will measure the same serum PCBs as in the first Anniston survey. In this way, changes in PCB levels can be studied. The ACHS–II will also include serum analytes for dioxins, furans, dioxin-like PCBs, and chlorinated pesticides. Additional analytes include blood measures of polybrominated biphenyls and heavy metals. Clinical biomarkers will include measures for thyroid, diabetes, lipids, and immune function. This will give a more complete profile of human exposures and health in Anniston, AL.

The ATSDR is requesting a two-year approval for this information collection. The total annualized burden is 227 hours.

There are no costs to respondents other than their time. Each respondent will spend about 2 hours in the study.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs)
Adults who took part in first Anniston Community Health Survey.	Recruitment Telephone Script	333	1	2/60
	Survey for Refusals	160	1	1/60
	Update Contact Information Form	250	1	1/60
	Medications Form	250	1	3/60
	Blood Draw Form	250	1	2/60
	Questionnaire	250	1	45/60

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. 2013–09362 Filed 4–19–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–13–12RO]

Agency Forms Undergoing Paperwork Reduction Act Review

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Proposed Project

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Background and Brief Description

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The City of Anniston, AL, was the site of the former Monsanto facility. PCBs were made there from 1929 to 1971. For decades, PCBs were released into the local air, soil, and surface water. In 1996, residents found out they were exposed. Concerns grew and led to litigation. In 2003, a settlement in favor of the residents was reached in state and federal courts.

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ACHS–II. Data collection will be managed by the University of Alabama at Birmingham (UAB) and the Calhoun County Health Department (CCHD).

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ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs)
Adults who took part in first Anniston Community Health Survey.	Recruitment Telephone Script	333	1	2/60
	Survey for Refusals	160	1	1/60
	Update Contact Information Form	250	1	1/60
	Medications Form	250	1	3/60
	Blood Draw Form	250	1	2/60
	Questionnaire	250	1	45/60

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. 2013–09363 Filed 4–19–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Developing Research Capacity to Assess Health Effects Associated with Volcanic Emissions and other Environmental Exposures, Funding Opportunity Announcement (FOA) EH13–002, Initial Review.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned SEP:

Time and Date: 1:00 p.m.–4:00 p.m., June 18, 2013 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Developing Research Capacity to Assess Health Effects Associated with Volcanic Emissions and other Environmental Exposures, FOA EH–13–002''.

Contact Person for More Information: J. Felix Rogers, Ph.D., M.P.H., Scientific Review Officer, CDC, 4770 Buford Highway, NE., Mailstop F63, Atlanta, Georgia 30341, Telephone: (770) 488–4334.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **FEDERAL REGISTER** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–09403 Filed 4–19–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers CMS–10151]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Data Collection

for Medicare Beneficiaries Receiving Implantable Cardioverter-Defibrillators for Primary Prevention of Sudden Cardiac Death; *Use:* CMS provides coverage for implantable cardioverter-defibrillators (ICDs) for secondary prevention of sudden cardiac death based on extensive evidence showing that use of ICDs among patients with a certain set of physiologic conditions are effective. Accordingly, CMS considers coverage for ICDs reasonable and necessary under Section 1862(a)(1)(A) of the Social Security Act. However, evidence for use of ICDs for primary prevention of sudden cardiac death is less compelling for certain patients.

To encourage responsible and appropriate use of ICDs, CMS issued a ''Decision Memo for Implantable Defibrillators'' on January 27, 2005, indicating that ICDs will be covered for primary prevention of sudden cardiac death if the beneficiary is enrolled in either an FDA-approved category B IDE clinical trial (42 CFR 405.201), a trial under the CMS Clinical Trial Policy (NCD Manual § 310.1) or a qualifying prospective data collection system (either a practical clinical trial or prospective systematic data collection, which is sometimes referred to as a registry). *Form Number:* CMS–10151 (OMB#: 0938–0967); *Frequency:* Occasionally; *Affected Public:* Private Sector; Business or other for-profits, Not-for-profit institutions; *Number of Respondents:* 1,702; *Total Annual Responses:* 82; *Total Annual Hours:* 139,356. (For policy questions regarding this collection contact JoAnna Baldwin at 410–786–7205. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *June 21, 2013*:

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: April 17, 2013.

Martique Jones,

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2013–09413 Filed 4–19–13; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Numbers: 93.581, 93.587, 93.612]

Notice of Final Issuance on the Adoption of Administration for Native Americans (ANA) Program Policies and Procedures

AGENCY: Administration for Native Americans (ANA), ACF, HHS.

ACTION: Issuance of Final Policy Directive.

SUMMARY: The Administration for Native Americans (ANA) is issuing final interpretive rules, general statements of policy and rules of agency organization, procedure, or practice relating to the following Funding Opportunity Announcements (FOAs): Social and Economic Development Strategies (hereinafter referred to as SEDS), SEDS—Native Asset Building Initiative (hereinafter referred to as NABI), Sustainable Employment and Economic Development Strategies (hereinafter referred to as SEEDS), Native Language Preservation and Maintenance (hereinafter referred to as Language Preservation), Native Language Preservation and Maintenance—Esther Martinez Initiative (hereinafter referred to as Language—EMI), and Environmental Regulatory Enhancement (hereinafter referred to as ERE). This notice also provides information about how ANA will administer these programs.

DATES: The policies noted in the original Notice of Public Comment (NOPC) are effective immediately upon publication.

FOR FURTHER INFORMATION CONTACT: Carmelia Strickland, Director, Division of Program Operations, ANA (877) 922–9262.

SUPPLEMENTARY INFORMATION: Section 814 of the Native Americans Programs Act of 1974, as amended, requires ANA to provide notice of its proposed interpretive rules, general statements of policy, and rules of agency organization, procedure or practice. The proposed clarifications, modifications, and new text will appear in the six FY 2013 FOAs: SEDS, NABI, SEEDS, Language Preservation, Language—EMI, and ERE. ANA published a NOPC in the **Federal Register** (78 FR 13062) on February 26, 2013, with proposed policy and program clarifications, modifications, and activities for the fiscal year (FY) 2013 FOAs. The public comment period was open for 30 days.

For information on the changes ANA is making, please refer to the NOPC at the following link: *https://www.federalregister.gov/articles/2013/02/26/2013-04383/request-for-public-comment-on-the-proposed-adoption-of-administration-for-native-americans-program.*

ANA received one comment from a Native non-profit organization. ANA considered the comment received and provides responses, clarifications, and modifications in this final directive. The following paragraph summarizes the comment and our response:

A. Comment and Response

Comment: ANA received one comment in reference to ANA's new administrative policy focused on conflict of interest standards that states that staff employed through an ANA-funded project cannot also serve as a member of the governing body for the applicant organization. Therefore, staff employed through an ANA-funded project cannot also serve as a member of the governing body for the applicant organization. During the award negotiation phase, ANA will ask the prospective recipient to modify project personnel if a proposed staff member is also a member of the applicant organization's governing body. In addition, there should be a separation of duties from staff and the governing bodies within an organization to ensure the integrity of internal controls and to minimize disruptions in the continuity of operations.

The commenter stated that this policy would have a negative impact on the commenter's organization's ability to implement a grant as it currently allows two teachers to serve as members of the school board, as required by their bylaws. If this policy were implemented, the applicant would not have the ability to modify project personnel to align with this policy due to the extreme shortage of certified

teachers with requisite language capabilities available to staff an ANA grant. In addition, the commenter stated that the by-laws are written so that teacher members do not have decision-making authority regarding personnel actions, nor to make financial decisions that are of personal benefit, thus insuring internal controls.

Response: ANA offers no change in response to this comment. While ANA is sympathetic to the commenter's concern, it is important that this policy remains as written. Under the standard terms and conditions for discretionary HHS awards (Grants Policy Statement, page II–7 at *https://www.acf.hhs.gov/grants/terms-and-conditions*), grant recipients are required to establish safeguards to prevent employees, consultants, members of governing bodies, and others who may be involved in grant-supported activities, from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private financial gain for themselves or others, such as those with whom they have family, business, or other ties.

This has been a long-standing policy of the Administration for Children and Families. All prospective applicants are required to submit the SF–424B Assurances (Non-Construction) agreeing to these terms and conditions at the time of submission. ANA understands this can cause challenges for applicants but it is important that applicants are reminded of the requirement to establish safeguards that prohibit employees from using their position for a purpose that presents a conflict of interest or the appearance of a conflict of interest.

B. Funding Opportunity Announcements

For information on the types of projects funded by ANA, please refer to ANA's Web site for information on our program areas and funding opportunity announcements: *http://www.acf.hhs.gov/programs/ana.*

Pre-publication information on ANA's FOAs is available at the HHS Forecast Web site at *http://www.acf.hhs.gov/hhsgrantsforecast/.*

Once published, the 2013 FOAs can be accessed at: *http://www.acf.hhs.gov/grants/open/foa/office/ana* or *http://www.acf.hhs.gov/grants/open/foa/.* Synopses and application forms will be available on *www.Grants.gov.*

Lillian A. Sparks,

Commissioner, Administration for Native Americans.

[FR Doc. 2013–09330 Filed 4–19–13; 8:45 am]

BILLING CODE 4184–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Establishment of the Discretionary Advisory Committee on Heritable Disorders in Newborns and Children

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Proposed Establishment of Discretionary Advisory Committee on Heritable Disorders in Newborns and Children.

SUMMARY: The U.S. Department of Health and Human Services announces establishment of the Discretionary Advisory Committee on Heritable Disorders in Newborns and Children.

FOR FURTHER INFORMATION CONTACT: Debi Sarkar, Public Health Analyst, Health Resources and Services Administration, Maternal and Child Health Bureau; telephone: 301–443–1080; email: *dsarkar@hrsa.gov.*

SUPPLEMENTARY INFORMATION: Under the Public Health Service Act (PHS), 42 U.S.C. 217a, the Secretary of Health and Human Services directed that the Discretionary Advisory Committee on Heritable Disorders in Newborns and Children shall be established within the Department of Health and Human Services (HHS). To comply with the authorizing directive and guidelines under the Federal Advisory Committee Act (FACA), a charter will be filed with the Committee Management Secretariat in the General Services Administration (GSA), the appropriate committees in the Senate and U.S. House of Representatives, and the Library of Congress to establish the Committee as a discretionary federal advisory committee.

Objectives and Scope of Activities. The purpose of the Discretionary Advisory Committee on Heritable Disorders in Newborns and Children (DACHDNC) is to advise the Secretary of Health and Human Services about aspects of newborn and childhood screening and technical information for the development of policies and priorities that will enhance the ability of the state and local health agencies to provide for newborn and child screening, counseling and health care services for newborns and children having, or at risk for, heritable disorders. The DACHDNC will review and report regularly on newborn and childhood screening practices, recommend improvements for newborn and childhood screening programs, as well as fulfill the list of requirements stated in the original authorizing legislation.

Membership and Designation. The Committee shall consist of up to fifteen (15) voting members, including the Chair. The members of the Committee shall be appointed by the Secretary or his/her designee. Membership will be composed of the Chair, Special Government Employees (SGEs), and federal ex-officio members. Federal ex-officio members shall include the Administrator of the Health Resources and Services Administration; the Directors of the Centers for Disease Control and Prevention; the National Institutes of Health; the Agency for Healthcare Research and Quality; and the Commissioner of the Food and Drug Administration—or their designees. The Chair and other members shall be (a) medical, technical, public health or scientific professionals with special expertise in the field of heritable disorders or in providing screening, counseling, testing, or specialty services for newborns and children at risk for heritable disorders; (b) experts in ethics and heritable disorders who have worked and published material in the area of public health and genetic conditions; and (c) members from the public sector who have expertise, either professional or personal, about or concerning heritable disorders in order to achieve a fairly balanced membership.

Administrative Management and Support. HHS will provide funding and administrative support for the Committee to the extent permitted by law within existing appropriations. Management and oversight for support services provided to the Committee will be the responsibility of the Health Resources and Services Administration (HRSA), Maternal and Child Health Bureau (MCHB).

A copy of the Committee charter will be made available through access to the FACA database, maintained by the GSA Committee Management Secretariat, or from the designated contacts. The Web site for the FACA database is *http://fido.gov/facadatabase/.*

Authority: The Discretionary Advisory Committee on Heritable Disorders in Newborns and Children is authorized in accordance with the Public Health Service Act (PHS), 42 U.S.C. 222 [217a]: Advisory councils or committees. The Committee is governed by provisions of Public Law 92–463, as amended, (5 U.S.C. App.), which sets forth standards for the formation and use of advisory committees.

Dated: April 16, 2013.

Mary K. Wakefield,

Administrator.

[FR Doc. 2013–09483 Filed 4–18–13; 11:15 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; ''Clinical Trails Units for NIAID Network'' (Meeting 1).

Date: May 16, 2013.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Dharmendar Rathore, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Rm 3134, Bethesda, MD 20892–7616, 301–435–2766, *rathored@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 16, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–09311 Filed 4–19–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Artificial Pancreas.

Date: July 10–11, 2013.

Time: 5:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: D.G. Patel, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 756, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7682, *pateldg@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 16, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–09320 Filed 4–19–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel 1 RO1 HD078139–01/Ronald M. Lazar, Ph.D.

Date: May 2, 2013.

Time: 3:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Anne Krey, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute, of Child Health And Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6908, *ak41o@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: April 16, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–09312 Filed 4–19–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: May 13, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Express, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Dennis E. Leszczynski, Ph.D., Scientific Review Officer, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–2717, *leszcyd@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: April 16, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–09313 Filed 4–19–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; ZHD1 DSR–L (50).

Date: May 13, 2013.

Time: 4:00 p.m. to 10:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Express, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Dennis E. Leszczynski, Ph.D., Scientific Review Officer, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–2717, *leszcyd@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: April 16, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–09319 Filed 4–19–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 USC, as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Drugged Driving: Future Research Directions (5569).

Date: May 9, 2013.

Time: 10:00 a.m. to 10:30 a.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 435–1439, *lf33c@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; National Drugged Driving Reporting System (5571).

Date: May 9, 2013.

Time: 10:30 a.m. to 11:00 a.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 435–1439, *lf33c@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Drugged Driving National Data Resource (5572).

Date: May 9, 2013.

Time: 11:00 a.m. to 11:30 a.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 435–1439, *lf33c@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; The Drugged Driving Information Service (5573).

Date: May 9, 2013.

Time: 11:30 a.m. to 12:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 435–1439, *lf33c@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Drugged Driving Web-based System (5574).

Date: May 9, 2013.

Time: 12:00 p.m. to 12:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 435–1439, *lf33c@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: April 16, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–09323 Filed 4–19–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed 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: Neurodegeneration.

Date: May 3, 2013.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mary Custer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7850, Bethesda, MD 20892, (301) 435–1164, *custerm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 16, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–09310 Filed 4–19–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Development of Drugs Against Infectious Diseases.

Date: May 6–7, 2013.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Tera Bounds, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, 301–435–2306, *boundst@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member conflict: Pulmonary Hypertension and Disease.

Date: May 14–15, 2013.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: George M. Barnas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4220, MSC 7818, Bethesda, MD 20892, 301–435–0696, *barnasg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Tobacco Control Regulatory Research.

Date: May 16, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Inner Harbor, 301 W. Lombard Street, Baltimore, MD 21201.

Contact Person: Tomas Drgon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3152, MSC 7770, Bethesda, MD 20892, 301–435–1017, *tdrgon@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Economics of Personalized Health Care.

Date: May 16, 2013.

Time: 11:00 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: Ping Wu, Ph.D., Scientific Review Officer, HDM IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, Bethesda, MD 20892, 301–615–7401, *wup4@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Vascular Hematology—One.

Date: May 16, 2013.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Anshumali Chaudhari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210, *chaudhaa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: CVRS and Continuous Submissions.

Date: May 17, 2013.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Olga A. Tjurmina, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301) 451–1375, *ot3d@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 16, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–09309 Filed 4–19–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–0273]

Chemical Transportation Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The Chemical Transportation Advisory Committee (CTAC) and its Subcommittees and Working Groups will meet on May 7 through 9, 2013, in Arlington, VA, to discuss marine transportation of hazardous materials. The meetings will be open to the public.

DATES: CTAC MARPOL, Liquified Gases, Biofuels, and Vapor Control

System Subcommittees will meet Tuesday, May 7, 2013, from 8 a.m. to 3 p.m. and Wednesday, May 8, 2013, from 8 a.m. to 3 p.m. The full CTAC committee will meet Thursday, May 9, 2013, from 8 a.m. to 3 p.m. Please note that the meetings may close early if the committee has completed its business.

All written materials, comments, and requests to make oral presentations at the meeting should reach Lieutenant Sean Peterson, Assistant Designated Federal Officer (ADFO) for CTAC by May 3, 2013. For contact information please see the **FOR FURTHER INFORMATION CONTACT** section below. Any written material submitted by the public will be distributed to the Committee and become part of the public record.

ADDRESSES: The meetings will be held at the U.S. Coast Guard Recruiting Command Training Room, 2300 Wilson Boulevard Suite 500, Arlington, VA. Attendees will be required to pre-register to be admitted to the building. Please provide name, telephone number, and company by close of business on May 3, 2013, to the contact person listed in **FOR FURTHER INFORMATION CONTACT** below. Attendees will be required to provide a picture identification card in order to gain admittance to the building.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Commander Michael Roldan as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee as listed in the ''Agenda'' section below. Comments must be submitted in writing no later than May 3, 2013, and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* (Preferred method to avoid delays in processing.)
- *Fax:* 202–493–2252.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: This notice, and documents or comments related to it, may be viewed in our online docket, USCG 2013–XXXX at *http://www.regulations.gov.*

A public comment period will be held during the meeting concerning matters being discussed. Public comments will be limited to three minutes per speaker. Please note that the public comment period may end before the time indicated following the last call for comments. Contact the individuals listed below to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Commander Michael Roldan, Designated Federal Officer (DFO) of the CTAC, or Lieutenant Sean Peterson, Assistant Designated Federal Officer, telephone 202–372–1403, fax 202–372–1926. If you have any questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (Pub. L. 92–463).

CTAC is an advisory committee authorized under section 871 of the Homeland Security Act of 2002, Title 6, United States Code, section 451, and chartered under the provisions of the FACA. The Committee acts solely in an advisory capacity to the Secretary of the Department of Homeland Security (DHS) through the Commandant of the Coast Guard and the Deputy Commandant for Operations on matters relating to marine transportation of hazardous materials. The Committee advises, consults with, and makes recommendations reflecting its independent judgment to the Secretary.

Agendas of Meetings

Subcommittees Meetings on May 7 and 8. Subcommittees and working groups will meet to address the items of interest listed in paragraph (2) of the agenda for the May 9 meeting and the tasks given at the last CTAC meeting and located at Homeport at the following address: *https://homeport.uscg.mil,* then go to: Missions > Ports and Waterways > Safety Advisory Committees > CTAC Subcommittees and Working Groups.

The agenda for each working group formed will include the following:

(1) Review task statements which can be found at Homeport at the following address: *https://homeport.uscg.mil,* then go to: Missions > Ports and Waterways > Safety Advisory Committees > CTAC > Subcommittees and Working Groups

(2) Work on tasks assigned in task statements mentioned above.

(3) Develop presentation for CTAC meeting on May 9.

The agenda for the CTAC meeting on May 9 is as follows:

1. Introductions and opening remarks.

2. Subcommittee presentations on the following items of interest:

a. U.S. Implementation of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk Code and International Convention for the Prevention of Pollution from Ships (MARPOL) Annex II

b. Requirements for Third-Party Surveyors of MARPOL Annex II Inspections

c. Improving implementation and education of MARPOL discharge requirements

d. Harmonization of response and carriage requirements for Biofuels and Biofuel blends

e. Recommendations on Safety Standards for the Design of Vessels Carrying Natural Gas or Using Natural Gas as Fuel

f. Recommendations for Safety Standards of Portable Facility Vapor Control Systems Used for Marine Operations

3. USCG presentations on the following items of interest:

a. MARPOL Annex V Ship Best Practices and Facility Reception of Hazardous Solid Bulk Residue

b. Update on International Maritime Organization as it relates to the marine transportation of hazardous materials

c. Update on U.S. Regulations as it relates to the marine transportation of hazardous materials

d. Update on Bulk Chemical Data Guide (Blue Book)

e. Vessel to vessel transfer of hazardous materials in bulk

4. Public Comment Period.

5. Set next meeting date and location.

6. Set Subcommittee and Working Group Meeting schedule.

Dated: April 17, 2013.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2013–09519 Filed 4–19–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2013–0014; OMB No. 1660–0105]

Agency Information Collection Activities; Proposed Collection; Comment Request: Community Preparedness and Participation Survey

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a revision of a currently approved collection for which approval expires on July 31, 2013. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the FEMA Community Preparedness and Participation Survey used to identify progress and gaps in citizen and community preparedness.

DATES: Comments must be submitted on or before June 21, 2013.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2013–0014. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Office of Chief Counsel, DHS/FEMA, 500 C Street SW., Room 835, Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Timothy Chad Stover, Program Specialist, Individual and Community Preparedness Division at 202–786–9860 for additional information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 646–3347 or email address: *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Community Preparedness and Participation Survey measures the public's participation in individual and community preparedness activities in accordance with direction in Executive Order 13254 to study and track the progress of public service programs. Citizen Corps was launched as a Presidential Initiative, on January 29, 2002, with a mission to bring together government and community leaders to involve citizens in all-hazards emergency preparedness and resilience. In order to fulfill its mission, the Federal Emergency Management Agency (FEMA) Individual and Community Preparedness Division (ICPD) will collect preparedness information from the public via a telephone survey. Individuals are interviewed and asked to respond to a series of survey questions. This collection of information, which began in 2007, is necessary to increase the effectiveness of awareness and recruitment campaigns, messaging and public information, community outreach efforts, and strategic planning initiatives.

Collection of Information

Title: Community Preparedness and Participation Survey.

Type of Information Collection: Revision of a currently approved collection.

FEMA Forms: FEMA Form 008–0–15, Community Preparedness Participation Survey.

Abstract: The Individual and Community Preparedness Division uses this information to more effectively improve the state of preparedness and participation from the general public by customizing preparedness education and training programs, messaging and public information efforts, and strategic planning initiatives.

Affected Public: Individuals or households.

Number of Respondents: 6,000 respondents.

Number of Responses: 6,000.

Estimated Total Annual Burden Hours: 3,000.

Estimated Cost: There are no record keeping, capital, start-up or maintenance costs associated with this information collection.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Dated: April 10, 2013.

Charlene D. Myrthil,

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2013–09398 Filed 4–19–13; 8:45 am]

BILLING CODE 9111–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5683–N–30]

Notice of Proposed Information Collection; Comment Request: Tax Credit Assistance Program (TCAP)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. HUD is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 22, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2506–0181) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov;* fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh

Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposed: Tax Credit Assistance Program (TCAP).

OMB Approval Number: 2506–0181.

Form Numbers: None.

Description of the need for the information and proposed use: Tax Credit Assistance Program (TCAP). This is a revision of an already approved information collection. HUD is seeking review of the Paperwork Reduction Act requirements associated with the Tax Credit Assistance Program (TCAP). Each TCAP grantee is required to use IDIS to report on project level information including the following information identified in the Office of Management and Budget (OMB) Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009 issued on February 18, 2009. Specifically, the guidance requires quarterly reporting on:

(1) The total amount of recovery funds received from that agency;

(2) The amount of recovery funds received that were obligated and expended to projects or activities. This reporting will also include unobligated Allotment balances to facilitate reconciliations.

(3) A detailed list of all projects or activities for which recovery funds were obligated and expended, including:

(A) The name of the project or activity;

(B) A description of the project or activity;

(C) An evaluation of the completion status of the project or activity;

(D) An estimate of the number of jobs created and the number of jobs retained by the project or activity; and

(E) For infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act, and name of the person to contact at the agency if there are concerns with the infrastructure investment.

(4) Detailed information on any subcontracts or subgrants awarded by the recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282), allowing aggregate reporting on awards below $25,000 or to individuals, as prescribed by the Director of OMB.

	Number of respondents	Annual responses	×	Hours per response	Burden hours
Reporting burden	52	34		4.705	8,320

Total Estimated Burden Hours: 8,320.

Status: Reinstatement with change of a previously approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 17, 2013.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2013–09387 Filed 4–19–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5687–N–21]

Notice of Proposed Information Collection; Comment Request: Section 811 Supportive Housing for Persons With Disabilities Capital Advance Application Submission Requirements

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. HUD is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 21, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW., L'Enfant Plaza Building, Room 9120, Washington, DC 20410; or the number for the Federal Relay Service (1–800–877–8339).

FOR FURTHER INFORMATION CONTACT: Catherine M. Brennan, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–3000 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: HUD is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Section 811 Supportive Housing for Persons with Disabilities, Application Submission Requirements.

OMB Control Number, if applicable: 2502–0462.

Description of the need for the information and proposed use: The collection of this information is necessary to the Department to assist HUD in determining applicant eligibility and ability to develop housing for persons with disabilities within statutory and program criteria. A thorough evaluation of an applicant's submission is necessary to protect the government's financial interest.

Agency form numbers, if applicable: HUD–92016–CA, HUD–92041, HUD–92042, HUD–92043, HUD–2880, HUD–2991, HUD–2990, HUD–96010, HUD–96011, HUD–92530; Standard grant forms: SF–424, SF–424–Supplemental, SF LLL.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of burden hours is 12,859. The number of respondents is 140, the number of responses is 140, the frequency of response is on occasion, and the burden hour per response is 91.85.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: April 16, 2013.

Laura M. Marin,

Acting General Assistant Secretary for Housing-Acting General Deputy Federal Housing Commissioner.

[FR Doc. 2013–09388 Filed 4–19–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5683–N–32]

Notice of Proposed Information Collection: Comment Request: HUD-Administered Small Cities Program Performance Assessment Report

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. HUD is soliciting public comments on the subject proposal.

The information collected from grant recipients participating in the HUD administered CDBG program provides HUD with financial and physical development status of each activity funded. These reports are used to determine grant recipient performance. Agency form numbers, if applicable: The Housing and Community Development Act of 1974, as amended, requires grant recipients that receive CDBG funding to submit a Performance Assessment Report (PAR), Form 4052, on an annual basis to report on program progress; and such records as may be necessary to facilitate review and audit by HUD of the grantee's administration of CDBG funds (Section 104(e)(1)).

DATES: *Comments Due Date:* May 22, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2506–0020) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov* fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov.* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposed: HUD-Administered Small Cities Program Performance Assessment Report.

OMB Approval Number: 2506–0020.

Form Numbers: HUD–4052.

Description of the need for the information and proposed use: The information collected from grant recipients participating in the HUD administered CDBG program provides HUD with financial and physical development status of each activity funded. These reports are used to determine grant recipient performance. Agency form numbers, if applicable: The Housing and Community Development Act of 1974, as amended, requires grant recipients that receive CDBG funding to submit a Performance Assessment Report (PAR), Form 4052, on an annual basis to report on program progress; and such records as may be necessary to facilitate review and audit by HUD of the grantee's administration of CDBG funds (Section 104(e)(1)).

	Number of respondents	Annual responses	×	Hours per response	Burden hours
Reporting Burden	40	1		4	160

Total Estimated Burden Hours: 160.

Status: Reinstatement without change of a previously approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 17, 2013.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2013–09385 Filed 4–19–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5683–N–31]

Notice of Proposed Information Collection: Comment Request: Congressional Earmark Grants

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. HUD is soliciting public comments on the subject proposal.

HUD's Congressional Grants Division and its Environmental Officers in the field use this information to make funds available to entities directed to receive funds appropriated by Congress. This information is used to collect, receive, review and monitor program activities through applications, semi-annual and close-out reports. The information that is collected is used to assess performance. Grantees are units of state and local government, nonprofits and Indian tribes. Respondents are initially identified by Congress and generally fall into two categories: Economic Development Initiative—Special Project (EDI—SP) grantees and Neighborhood Initiative (NI) grantees. The agency has used the application, semi-annual reports and close-out reports to track grantee performance in the implementation of approved projects.

DATES: *Comments Due Date:* May 22, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2506–0179) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov;* fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov.* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that the HUD has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposed: Congressional Earmark Grants.

OMB Approval Number: 2506–0179.

Form Numbers: HUD 27056, HUD 27054, SF 424, SF 425, SF LLL, SF 1199, HUD–27053.

Description of the need for the information and proposed use: HUD's Congressional Grants Division and its Environmental Officers in the field use this information to make funds available to entities directed to receive funds appropriated by Congress. This information is used to collect, receive, review and monitor program activities through applications, semi-annual and close-out reports. The information that is collected is used to assess performance. Grantees are units of state and local government, nonprofits and Indian tribes. Respondents are initially identified by Congress and generally fall into two categories: Economic Development Initiative—Special Project (EDI—SP) grantees and Neighborhood Initiative (NI) grantees. The agency has used the application, semi-annual reports and close-out reports to track grantee performance in the implementation of approved projects.

	Number of respondents	Annual responses	×	Hours per response	Burden hours
Reporting Burden	777	1		2	1,554

Total Estimated Burden Hours: 1,554.

Status: Reinstatement with change of a previously approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 17, 2013.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2013–09386 Filed 4–19–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–R–2012–N235; FF06R06000 134 FXRS1265066CCP0]

Quivira National Wildlife Refuge, Stafford, KS; Comprehensive Conservation Plan and Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce that our draft comprehensive conservation plan (CCP) and environmental assessment (EA) for Quivira National Wildlife Refuge is available. This draft CCP/EA describes how the Service intends to manage this refuge for the next 15 years.

DATES: To ensure consideration, we must receive your written comments on the draft CCP/EA by May 20, 2013.

Submit comments by one of the methods under **ADDRESSES**.

ADDRESSES: Send your comments or requests for more information by any of the following methods.

Email: toni_griffin@fws.gov. Include ''Quivira NWR'' in the subject line of the message.

Fax: Attn: Toni Griffin, Planning Team Leader, 303–236–4792.

U.S. Mail: Toni Griffin, Planning Team Leader, Suite 300, 134 Union Boulevard, Lakewood, CO 80228.

Document Request: A copy of the CCP/EA may be obtained by writing to U.S. Fish and Wildlife Service, Division of Refuge Planning, 134 Union Boulevard, Suite 300, Lakewood, Colorado 80228; or by download from *http://mountain-prairie.fws.gov/planning.*

FOR FURTHER INFORMATION CONTACT: Toni Griffin, 303–236–4378 (phone); 303–236–4792 (fax); or *toni_griffin@fws.gov* (email); or David C. Lucas, 303–236–4366 (phone); 303–236–4792 (fax); or *david_c_lucas@fws.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for the Quivira National Wildlife Refuge. We started this process through a notice in the **Federal Register** (75 FR 8394, February 24, 2010).

The 22,135-acre Quivira National Wildlife Refuge is part of the National Wildlife Refuge System and is located in Reno, Rice, and Stafford Counties in south-central Kansas. The Quivira National Wildlife Refuge was established in 1955 to provide wintering and migration stopover habitat for migratory birds along the Central Flyway of North America. Wetlands large and small are present throughout the refuge, with approximately 7,000 acres of wetlands with slightly to moderately saline water. Thousands of Canada geese, ducks, and other migratory birds such as sandhill cranes and shorebirds use these wetlands as they pass through the refuge on their annual migrations. The refuge provides critical habitat for the federally listed whooping crane and State-listed western snowy plover. Bald eagles winter and nest on the refuge, and Interior least terns nest on the refuge. The refuge also provides numerous opportunities for the public, including hunting, fishing, wildlife observation and photography, interpretation and environmental education for students and visitors. The Quivira Refuge manages the Great Plains Nature Center located in Wichita, which compliments and supports the purpose of the refuge. The refuge has many special designations, including the following: It is a Ramsar Site (Wetlands of International Importance), it is in the Western Hemisphere Shorebird Reserve Network (WHSRN), and it is an Important Bird Area (IBA, National Audubon Society) and Research Natural Area.

Background

The CCP Process

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, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Administration Act.

Public Outreach

We started the CCP for Quivira Refuge in February 2010. At that time and throughout the process, we requested public comments and considered and incorporated them in the planning process. Public outreach has included a news release, planning update, and three scoping meetings. Comments we received cover topics such as habitat management, threatened and endangered species, and public use. We have considered and evaluated all of these comments, with many incorporated into the various alternatives addressed in the draft CCP and the EA.

CCP Alternatives We Are Considering

Alternative A—Current Management (No Action)

Funding, staff levels, and management activities at the refuge would not change. Habitats would be managed to increase and maintain resilience through conservation of native communities. Baseline monitoring of habitat conditions that could potentially be related to the effects of climate change would continue. Staff would continue to seek information and maintain communications with others regarding current and potential future conservation issues impacting the refuge, while periodically assessing the role of the refuge at different landscape scales. The hydrology of the Big Salt Marsh would be allowed to fluctuate with natural climate variations, and use of Rattlesnake Creek water would be limited. The Little Salt Marsh would continue to be used to serve the dual roles of providing waterbird habitat and storing water from Rattlesnake Creek to facilitate management of other refuge wetlands.

Migratory birds would continue to be the focus of refuge management, with a primary focus of wetland management to provide migration, resting, and nesting habitat for a diversity of waterbirds, especially waterfowl, cranes, shorebirds, and rails. Upland habitats would continue to be managed to provide migratory and nesting habitat, primarily favoring native wildlife communities characteristic of open sand prairie. Quivira Refuge would continue to manage habitats in support of Federal and State threatened and endangered species, Federal candidate species, and State species in need of conservation, especially those species with designated critical habitat on Quivira Refuge lands and those that most commonly depend on refuge resources. Staffing would consist of nine full-time permanent refuge funded employees, one permanent part-time employee and two fire-funded staff. In addition, one permanent employee would be stationed at the GPNC. The Service would continue to support the GPNC through its partnership with the City of Wichita Department of Park and Recreation and the Kansas Department of Wildlife, Parks and Tourism. Level of Service staffing at the GPNC would remain the same.

Alternative B—Proposed Action

Management would focus on restoring native communities that benefit focal resources, or focal species and their respective habitats, and increasing public use opportunities for hunting. Increased attention would be given to understanding and minimizing effects of management among habitat types, such as habitat changes in meadow and adjacent uplands resulting from water management in created wetlands. This should enhance awareness of the connectedness of habitats and areas throughout the refuge. To achieve this alternative, relatively minor changes in the refuge's operations; inventory,

monitoring, and research; staffing; and infrastructure would likely be required.

Alternative C

The intent of alternative C would be to promote self-sustaining natural processes to the extent possible. Key values of restoring natural ecological processes are achieving long-term sustainability of native communities and lowering maintenance costs on some aspects of management. Management efforts, such as prescribed fire, grazing, and invasive species control, would be focused on maintaining native plant community composition and diversity, with the assumption that native wildlife would benefit from these activities. Relative to other alternatives, habitat conditions would be allowed to fluctuate more with climatically driven wet and dry cycles; however, some management would still be required to mitigate the effects of past land use on the refuge and in the watershed that have permanently altered some ecological processes.

Initially, considerable time would be required to assess current ecological functions, identify key elements that should be restored, and evaluate potential restoration options that could be implemented within the constraints imposed by biological, economic, social, political, and legal considerations. Implementation of this alternative would occur in stages over many years, and changes in refuge research and monitoring, staffing, operations, and infrastructure would be required. In addition, the success of actions implemented under this alternative would be influenced greatly by the ability of management to develop new and expanded partnerships with a diversity of stakeholders in the Rattlesnake Creek watershed.

Public Meetings

Opportunity for public input will be provided at public meetings. The specific dates and times for the public meetings are yet to be determined, but will be announced via local media and a planning update.

Next Steps

After the public reviews and provides comments on the draft CCP and EA, the planning team will present this document along with a summary of all substantive public comments to the Regional Director. The Regional Director will consider the environmental effects of each alternative, including information gathered during public review, and will select a preferred alternative for the draft CCP and EA. If the Regional Director finds that no significant impacts would occur, the Regional Director's decision will be disclosed in a finding of no significant impact included in the final CCP. If the Regional Director finds a significant impact would occur, an environmental impact statement will be prepared. If approved, the action in the preferred alternative will compose the final CCP.

Public Availability of Comments

All public comment information provided voluntarily by mail, by phone, or at meetings (e.g., names, addresses, letters of comment, input recorded during meetings) becomes part of the official public record. If requested under the Freedom of Information Act by a private citizen or organization, the Service may provide copies of such information.

Authority

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*); NEPA Regulations (40 CFR parts 1500–1508, 43 CFR part 46); other appropriate Federal laws and regulations; Executive Order 12996; the National Wildlife Refuge System Improvement Act of 1997; and Service policies and procedures for compliance with those laws and regulations.

Dated: October 29, 2012.

Noreen E. Walsh,

Acting Regional Director, Mountain Prairie Region, U.S. Fish and Wildlife Service.

[FR Doc. 2013–09348 Filed 4–19–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2013–0061; FXES11120200000F2–112–FF02ENEH00]

Draft Environmental Assessment and Proposed Renewal and Amendment to the Barton Springs Pool Habitat Conservation Plan, City of Austin, Travis County, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of the draft environmental assessment and the draft amendment to the Barton Springs Pool Habitat Conservation Plan (BSPHCP), under the National Environmental Policy Act of 1969. The City of Austin (applicant) has applied for a renewal of their existing Endangered Species Act incidental take permit, with a major amendment to add the Austin blind salamander, which is proposed as endangered, as an additional covered species; to increase the amount of take for Barton Springs salamander; and to extend the permit term for an additional 20 years.

DATES: *Comments:* We will accept comments received or postmarked on or before June 21, 2013. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date. Any comments that we receive after the closing date may not be considered in the final decisions on these actions.

ADDRESSES: *Obtaining Documents:*

- *Internet:* You may obtain copies of the all of documents on the Internet at *http://www.regulations.gov* (Docket Number FWS–R2–ES–2013–0061), or on the Service's Web site at *http://www.fws.gov/southwest/es/AustinTexas/*. The draft BSHCP is available on the City of Austin's ftp site at *ftp://ftp.ci.austin.tx.us/wre/BSHCP/*.
- *U.S. Mail:* A limited number of CD–ROM and printed copies of the draft EA and draft HCP are available, by request, from Mr. Adam Zerrenner, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, TX 78758–4460; telephone 512–490–0057; fax 512–490–0974. Please note that your request is in reference to the BSPHCP (TE–839031).

The ITP application is available by mail from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 6034, Albuquerque, NM 87103.

- *In-Person:* Copies of the draft EA and draft BSHCP are also available for public inspection and review at the following locations, by appointment and written request only, 8 a.m. to 4:30 p.m.:
  - Department of the Interior, Natural Resources Library, 1849 C. St. NW., Washington, DC 20240.
  - U.S. Fish and Wildlife Service, 500 Gold Avenue SW., Room 6034, Albuquerque, NM 87102.
  - U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758.

Comment submission: You may submit written comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov*. In the Search box, enter FWS–R2–ES–2013–0061, which is the docket number for this notice. Then,

on the left side of the screen, under the Document Type heading, click on the Notices link to locate this document and submit a comment.

• *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R2–ES–2013–0061; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments by only the methods described above. We will post all information received on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the Public Availability of Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Mr. Adam Zerrenner, Field Supervisor, by U.S. mail at U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, TX 78758–4460; or by telephone at 512–490–0057.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), we advise the public that:

1. We have gathered the information necessary to determine impacts and formulate alternatives for the draft environmental assessment (EA) related to potential issuance of a renewed incidental take permit (ITP) with a major amendment to the applicant; and

2. The applicant has developed an amended draft habitat conservation plan (HCP) as part of the application for an ITP, which describes the measures the applicant has agreed to take to minimize and mitigate the effects of incidental take of covered species to the maximum extent practicable pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*).

The applicant has applied for renewal of their ITP (TE–839031), with a major amendment that would be in effect for an additional 20 years if granted, and would authorize incidental take of two animal species (covered species), the Barton Springs salamander (*Eurycea sosorum*), which is listed as endangered, and the Austin Blind salamander (*Eurycea waterlooensis*), which is proposed for listing as endangered. As described in the draft HCP, the proposed incidental take would occur in four spring sites within Zilker Park, Travis County, Texas (permit area), and would result from activities associated with otherwise lawful activities, including the operations and maintenance of Barton Springs Pool (covered activities). The draft EA considers the direct, indirect, and cumulative effects of implementation of the draft HCP, including the measures that will be implemented to minimize and mitigate, to the maximum extent practicable, the impacts of the incidental take of the covered species.

Background

The applicant currently holds an ITP (TE–839031) for the Barton Springs salamander, which is covered by the BSPHCP. The existing permit expires October 2, 2013. Opportunity for public review of the original permit application, the existing EA, and the existing BSPHCP was provided in the **Federal Register** on March 16, 1998 (63 FR 12817), and July 15, 1998 (63 FR 38191). Activities included in the existing and draft BSPHCP include, but are not limited to, recreation, operations, maintenance, and restoration at Barton Springs Pool, Old Mill Spring, Eliza Spring, and Upper Barton Spring.

The applicant is seeking an ITP to add Austin Blind salamander as a covered species, to increase the amount of take authorized for Barton Springs salamander, and to extend the permit term an additional 20 years to 2033.

Proposed Action

The proposed action involves the renewal of the ITP with a major amendment by the Service for the covered activities in the permit area pursuant to section 10(a)(1)(B) of the Act. The ITP would cover ''take'' of the covered species associated with otherwise lawful activities, including recreation, operations, maintenance, and restoration at Barton Springs Pool, Old Mill Spring, Eliza Spring, and Upper Barton Spring. The requested term of the ITP is 20 years. To meet the requirements of a section 10(a)(1)(B) permit, the applicant has developed and proposes to implement their draft HCP, which describes the conservation measures the applicant has agreed to undertake to minimize and mitigate the impacts of the proposed incidental take of the covered species to the maximum extent practicable, and ensures that incidental take will not appreciably reduce the likelihood of the survival and recovery of these species in the wild. This alternative provides a comprehensive mitigation approach for unavoidable impacts to covered species.

Other Alternatives Considered

We considered one alternative to the proposed action.

1. No Action—No renewal of the ITP with a major amendment would be issued. Under this alternative, maintenance of the Barton Springs Pool would continue only until the current permit expires. When the current permit expires, the applicant would halt all maintenance activities that may cause take of listed species. As routine and post-flood cleaning is critical to maintaining Barton Springs Pool for recreational activities, use of the Pool would likely be restricted until a new incidental take permit could be issued. The applicant would continue to be subject to the take prohibitions of the Act. Where potential impacts could not be avoided, and where a Federal nexus exists, measures designed to minimize and mitigate for the impacts would be addressed through individual section 7 consultations with the Service.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. 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 request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the Act and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA and its implementing regulations (40 CFR 1506.6).

Joy E. Nicholopoulos,

Acting Regional Director, Southwest Region, Albuquerque, New Mexico.

[FR Doc. 2013–09408 Filed 4–19–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[AAK3003300/A0H901010/134A2100DD]

Renewal of Agency Information Collection for Appointed Counsel in Involuntary Indian Child Custody Proceedings in State Courts

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of submission to OMB.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Affairs (BIA) is seeking comments on the renewal of Office of Management and Budget (OMB) approval for the collection of information for Appointed Counsel in Involuntary Indian Child Custody Proceedings in State Courts authorized by OMB Control Number 1076–0111. This information collection expires May 31, 2013.

DATE: Interested persons are invited to submit comments on or before May 22, 2013.

ADDRESSES: You may submit comments on the information collection to the Desk Officer for the Department of the Interior at the Office of Management and Budget, by facsimile to (202) 395–5806 or you may send an email to: *OIRA_Submission@omb.eop.gov.* Please send a copy of your comments to Sue Settles, Chief, Division of Human Services, Office of Indian Services, Bureau of Indian Affairs, U.S. Department of the Interior, 1849 C Street NW., Mailstop 4513 MIB, Washington, DC 20240, or fax to (202) 208–2648, or email: *Sue.Settles@bia.gov.*

FOR FURTHER INFORMATION CONTACT: Sue Settles, (202) 513–7621. You may review the information collection request online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Bureau of Indian Affairs (BIA) is seeking comments on the information collection conducted under 25 CFR 23.13, implementing the Indian Child Welfare Act (25 U.S.C. 1901 et seq.). The information collection allows BIA to receive written requests by State courts that appoint counsel for an indigent Indian parent or Indian custodian in an involuntary Indian child custody proceeding when appointment of counsel is not authorized by State law. The applicable BIA Regional Director uses this information to decide whether to certify that the client in the notice is eligible to have the counsel compensated by the BIA in accordance with the Indian Child Welfare Act.

II. Request for Comments

The BIA requests your comments on this collection concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it displays a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. Before including your address, phone number, email address or other personally identifiable 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.

III. Data

OMB Control Number: 1076–0111.

Title: Payment for Appointed Counsel in Involuntary Indian Child Custody Proceedings in State Courts, 25 CFR 23.13.

Brief Description of Collection: This information is required in order for States to receive payment for counsel appointed for indigent Indian parents or custodians in involuntary child custody proceedings under 25 CFR 23.13. The information is collected to determine applicant eligibility for services. A response is required to obtain a benefit.

Type of Review: Extension without change of currently approved collection.

Respondents: State courts eligible for payment of attorney fees pursuant to 25 CFR 23.13.

Number of Respondents: 4 per year.

Estimated Time per Response: 2 hours for reporting and 1 hour for recordkeeping.

Frequency of Response: Once, on occasion.

Estimated Total Annual Hour Burden: 12 hours.

Estimated Total Annual Cost: $0.

Dated: April 16, 2013.

John Ashley,

Acting Assistant Director for Information Resources.

[FR Doc. 2013–09345 Filed 4–19–13; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVB00000 L71220000 GN0000 LVTFF1201640 241A; NVN–088878; NVN–091878; NVN–091879; 13–08807; MO# 4500049370; TAS:14X8069]

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Gibellini Mine Project, Eureka and White Pine Counties, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Mount Lewis Field Office, Battle Mountain, Nevada, intends to prepare an Environmental Impact Statement (EIS) to analyze and disclose impacts associated with the Gibellini Mine Project, a proposed open pit vanadium mine, processing, and associated facilities, located on public land in Eureka and White Pine counties, Nevada, and by this notice is announcing the beginning of the scoping process to solicit public comments and identify issues.

DATES: This notice initiates the public scoping process for the EIS. Comments on issues may be submitted in writing until May 22, 2013. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local media, newspapers and the BLM Web site at: *http://www.blm.gov/nv/st/en/fo/battle_mountain_field.html.* In order to be considered during the preparation of the Draft EIS, all comments must be received prior to the close of the 30 day scoping period or 15 days after the last public meeting, whichever is later. The BLM will provide additional opportunities for public participation upon publication of the Draft EIS.

ADDRESSES: You may submit comments related to the proposed Gibellini Mine Project by any of the following methods:

- *Email: BLM_NV_BMDO_GibelliniProject@blm.gov.*
- *Fax:* 775–635–4034.
- *Mail:* BLM, Mount Lewis Field Office, 50 Bastian Road, Battle Mountain, NV 89820.

Documents pertinent to this proposal may be examined at the Mount Lewis Field Office.

FOR FURTHER INFORMATION CONTACT: Gloria Tibbetts, Planning and Environmental Coordinator, telephone: 775–635–4060; address: 50 Bastian Road, Battle Mountain, NV 89820; email: *gtibbetts@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: American Vanadium US, Inc. proposes to construct, operate, reclaim, and close an open pit, heap leach, vanadium mining operation known as the Gibellini Mine Project. The proposed project also includes a water, power and communications corridor extending 6.5 miles from the Fish Creek Ranch to the proposed project area.

The proposed project would be located 27 miles south of Eureka, Nevada in Eureka and White Pine counties. The proposed project area contains approximately 7,697 acres of public land managed by the Mount Lewis Field Office; of that area, approximately 730 acres of disturbance is proposed.

For this proposed project, vanadium would be used in an electrolyte solution in the development of new energy storage technology. A photovoltaic solar field would be built at the mine to demonstrate the new battery technology on-site.

The Gibellini Mine Project is in conformance with the 1986 Shoshone-Eureka Resource Area Resource Management Plan (RMP) and Record of Decision which states that all public land in the planning areas will be open for mining and prospecting unless withdrawn or restricted from mineral entry. One of the objectives of the RMP is to make available and encourage development of mineral resources to meet the national, regional, and local needs consistent with national objectives, for an adequate supply of minerals.

Approximately 3.5 million tons of ore and waste rock would be mined annually and extracted using conventional open pit mining methods of drilling and blasting over the approximately seven-year production phase of the mine life. The proposed project includes mining approximately 15.6 million tons of ore material containing 120.5 million pounds of vanadium over the mine life. Approximately 4.3 million tons of waste rock and sub-grade ore material would be mined during the life of the project. The primary facilities associated with the proposed project would include the open pit, waste rock dump facility, mine office and facilities, photovoltaic solar field, crushing facilities and stockpile, heap leach pad, process facility, various process and make up water ponds, borrow areas, mine and access roads, exploration activities and a 6.5-mile water, power and communications corridor. American Vanadium US, Inc. would employ up to 160 employees for the construction of the proposed project and approximately 120 employees during the production phase of the mine, including contractors.

An interdisciplinary approach will be used to develop the EIS in order to consider the variety of resource issues and concerns identified during the scoping period. Potential direct, indirect, residual, and cumulative impacts from the proposed action will be analyzed in the EIS.

The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including potential alternatives, and the extent to which those issues and impacts will be analyzed in the EIS. At present, the BLM has identified the following preliminary issues: (1) Closure of the sulfuric acid heap leach pad; (2) Impacts to vegetation and wildlife that could include loss of habitat for Greater sage-grouse and loss of acreage for livestock grazing; and (3) Cumulative socioeconomic concerns associated with the influx of workers expected to be employed by this mine and others in the nearby areas over the next several years.

The BLM will follow the NEPA public participation requirements to satisfy the public involvement requirements under Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470(f)) pursuant to 36 CFR 800.2(d)(3). Any information about historic and cultural resources within the area potentially affected by the proposed project will assist the BLM in identifying and evaluating impacts to such resources in the context of both NEPA and Section 106 of the NHPA.

The BLM will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed Gibellini Mine Project are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis as a cooperating agency.

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.

Authority: 40 CFR 1501.7.

Timothy J. Coward,

Acting Field Manager, Mount Lewis Field Office.

[FR Doc. 2013–09393 Filed 4–19–13; 8:45 am]

BILLING CODE 4310–HP–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NERO–CACO–12710; PPNECACOS0, PPMPSD1Z.YM0000]

Notice of May 13, 2013, Meeting for Cape Cod National Seashore Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Meeting Notice.

SUMMARY: This notice sets forth the date of the Two Hundred Eighty-Ninth Meeting of the Cape Cod National Seashore Advisory Commission.

DATES: The public meeting of the Cape Cod National Seashore Advisory Commission will be held on Monday, May 13, 2013 at 1:00 p.m. (Eastern).

ADDRESSES: The Commission members will meet in the meeting room at Headquarters, 99 Marconi Site Road, Wellfleet, Massachusetts 02667.

Two Hundred Eighty-Ninth Meeting of the Cape Cod National Seashore Advisory Commission

The two-hundred and eighty-ninth meeting of the Cape Cod National Seashore Advisory Commission will take place on Monday, May 13, 2013, at

1:00 p.m., in the meeting room at Headquarters, 99 Marconi Station, in Wellfleet, Massachusetts to discuss the following:

1. Adoption of Agenda
2. Approval of Minutes of Previous Meeting (March 25, 2013)
3. Reports of Officers
4. Reports of Subcommittees
   Report from Herring Cove Beach Subcommittee including presentation of preferred alternative for adoption by the full Advisory Commission
   Update of Pilgrim Nuclear Plant Emergency Planning Subcommittee
5. Superintendent's Report
   Update on Sequestration/FY 13 budget and program offerings
   Update on Dune Shacks
   Improved Properties/Town Bylaws
   Herring River Wetland Restoration
   Wind Turbines/Cell Towers
   Storm Damage
   Shorebird Management Planning
   Highlands Center Update
Alternate Transportation funding
Ocean stewardship topics—shoreline change
Climate Friendly Parks
6. Old Business
7. New Business
8. Date and agenda for next meeting
9. Public comment and
10. Adjournment

FOR FURTHER INFORMATION CONTACT: Further information concerning the meeting may be obtained from the Superintendent, George E. Price, Jr., Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, MA 02667, at (508) 771–2144.

SUPPLEMENTARY INFORMATION: The Commission was reestablished pursuant to Public Law 87–126 as amended by Public Law 105–280. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to Commission members. Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent prior to the meeting. 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: April 12, 2013.

George E. Price, Jr.,

Superintendent, Cape Cod National Seashore.

[FR Doc. 2013–09334 Filed 4–19–13; 8:45 am]

BILLING CODE 4310–WV–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Colorado River Basin Salinity Control Advisory Council

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Colorado River Basin Salinity Control Advisory Council (Council) was established by the Colorado River Basin Salinity Control Act of 1974 (Public Law 93–320) (Act) to receive reports and advise Federal agencies on implementing the Act. In accordance with the Federal Advisory Committee Act, the Bureau of Reclamation announces that the Council will meet as detailed below. The meeting of the Council is open to the public.

DATES: The Council will convene the meeting on Thursday, May 16, 2013, at 1:00 p.m. and recess at approximately 5:00 p.m. The Council will reconvene the meeting on Friday, May 17, 2013, at 8:30 a.m. and adjourn the meeting at approximately 11:30 a.m.

ADDRESSES: The meeting will be held at the Courtyard by Marriott, 765 Horizon Drive, Grand Junction, Colorado 81506. Send written comments to Mr. Kib Jacobson, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1147; telephone (801) 524–3753; facsimile (801) 524–3826; email at: *kjacobson@usbr.gov.*

FOR FURTHER INFORMATION CONTACT: Kib Jacobson, telephone (801) 524–3753; facsimile (801) 524–3826; email at: *kjacobson@usbr.gov.*

SUPPLEMENTARY INFORMATION: Any member of the public may file written statements with the Council before, during, or up to 30 days after the meeting either in person or by mail. To the extent that time permits, the Council chairman will allow public presentation of oral comments at the meeting. To allow full consideration of information by Council members, written notice must be provided at least 5 days prior to the meeting. Any written comments received prior to the meeting will be provided to Council members at the meeting.

The purpose of the meeting will be to discuss and take appropriate actions regarding the following: (1) the Basin States Program created by Public Law 110–246, which amended the Act; (2) responses to the Advisory Council Report; and (3) other items within the jurisdiction of the Council.

Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in any communication, 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 communication to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: March 7, 2013.

Larry Walkoviak,

Regional Director, Upper Colorado Region.

[FR Doc. 2013–09111 Filed 4–19–13; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

On April 16, 2013, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of New Jersey in the lawsuit entitled *United States* v. *D.S.C. of Newark Enterprises, Inc.,* Civil Action No. 3:09–CV–02270.

This consent decree resolves the CERCLA Section 107 complaint filed against D.S.C. of Newark Enterprises, Inc. (''D.S.C.''), at the Friction Division Products Superfund Site in Lawrence Township, Mercer County, New Jersey. The United States incurred response costs relating to hazardous substances, including asbestos, which were released at the Site during defendant D.S.C.'s ownership of the Site. The consent decree provides for D.C.S. to pay the United States $1,562,500 for Past Response Costs incurred at the Site, plus interest that accrues on this amount since January 15, 2013. The payment by D.S.C. will recover approximately 92% of EPA's Past Response Costs at the Site.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *D.S.C. of Newark Enterprises, Inc.,* D.J. Ref. No. 90–11–3–09675. All comments must be submitted no later than thirty days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By e-mail ..	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $4.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Brian Donohue,

Acting Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–09298 Filed 4–19–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request: Standard on 4,4′-Methylenedianiline in General Industry

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Standard on 4,4′-Methylenedianiline in General Industry,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.).

DATES: Submit comments on or before May 22, 2013.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain*, on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: The Standard on 4,4′-Methylenedianiline (MDA) in General Industry protects workers from adverse health effects associated with occupational exposure to MDA in general industry. Employers must monitor exposure, ensure worker exposures are within the permissible exposure limits, provide workers with medical examinations and training, and establish and maintain worker exposure-monitoring and medical records.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0184. The current approval is scheduled to expire on April 30, 2013; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on January 30, 2013 (78 FR 6350).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0184. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Standard on 4,4′-Methylenedianiline in General Industry.

OMB Control Number: 1218–0184.

Affected Public: Private sector—businesses or other for-profits.

Total Estimated Number of Respondents: 11.

Total Estimated Number of Responses: 659.

Total Estimated Annual Burden Hours: 370.

Total Estimated Annual Other Costs Burden: $27,982.

Dated: April 15, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–09308 Filed 4–19–13; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collection described in this notice. The public is invited to comment on the proposed information collections pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before May 22, 2013 to be assured of consideration.

ADDRESSES: Send comments to Mr. Nicholas A. Fraser, Desk Officer for NARA, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5167; or electronically mailed to *Nicholas_A._Fraser@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–837–1694 or fax number 301–713–7409.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on February 24, 2010 (75 FR 8407 and 8408). No comments were received. NARA has submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA'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 collection of information on respondents, including the use of information technology; and (e) whether small businesses are affected by this collection. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Identification Card Request.

OMB number: 3095–0057.

Agency form number: NA Form 6006.

Type of review: Regular.

Affected public: Individuals or households, Business or other for-profit, Federal government.

Estimated number of respondents: 1,500.

Estimated time per response: 3 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 75 hours.

Abstract: The collection of information is necessary as to comply with HSPD–12 requirements. Use of the form is authorized by 44 U.S.C 2104. At the NARA College Park facility, individuals receive a proximity card with the identification badge that is electronically coded to permit access to secure zones ranging from a general nominal level to stricter access levels for classified records zones. The proximity card system is part of the security management system that meets the accreditation standards of the Government intelligence agencies for storage of classified information and serves to comply with E.O. 12958.

Dated: April 11, 2013.

Michael L. Wash,

Executive for Information Services/CIO.

[FR Doc. 2013–09379 Filed 4–19–13; 8:45 am]

BILLING CODE 7515–01–P

POSTAL REGULATORY COMMISSION

[Docket No. C2009–1R; Order No. 1700]

Settlement Conference

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent order convening a settlement conference between GameFly, Inc. and the Postal Service. This notice informs the public of this development and takes other administrative steps, including appointment of a settlement coordinator.

DATES: *Settlement conference:* April 23, 2013 at 10:00 a.m.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Background
III. GameFly Motion, Postal Service Reply, and GameFly Response
IV. Analysis
V. Settlement Procedures

I. Introduction

The latest issues in this docket come before the Commission on remand from the United States Court of Appeals for the District of Columbia.[1] Following the issuance of the Court's mandate, on March 7, 2013, GameFly, Inc. (GameFly) filed a motion requesting the Commission to establish standards and procedures for proceedings on remand.[2]

The Postal Service replied to the GameFly Motion and GameFly filed a response.[3] For the reasons discussed below, the Commission defers action on these filings and will convene a settlement conference to pursue the possibility of the parties agreeing to a mutually acceptable resolution of the remaining issues in the remanded proceeding. The settlement conference will convene at 10:00 a.m. April 23, 2013 in the Commission's hearing room.

II. Background

Proceedings in this docket were instituted by GameFly's filing of a complaint under 39 U.S.C. 3662. In its complaint, GameFly alleged that rates and services offered by the Postal Service to certain DVD mailers violated prohibitions on undue or unreasonable discrimination under 39 U.S.C. 101(d), 403(c), 404(b), and 3622(b)(8).[4]

GameFly, which is in the business of renting video game DVDs, alleged that the Postal Service discriminated against GameFly by not providing the same treatment to GameFly's mail as it did to the mail of Netflix and Blockbuster (which are primarily in the business of renting movie DVDs). *Id.* at 12. GameFly alleged further that the Postal Service manually culled and processed Netflix and Blockbuster's mail, allowing them to mail one-ounce First-Class letters without paying a non-machinable surcharge or exposing their DVDs to the risk of breakage on automated machines.

[1] *GameFly, Inc.* v. *Postal Regulatory Commission,* 704 F.3d 145 (D.C. Cir. 2013) (*GameFly*).

[2] Docket No. C2009–1, Motion of GameFly, Inc., to Establish Standards and Procedures to Govern Proceedings on Remand, March 7, 2013 (GameFly Motion).

[3] *See* United States Postal Service Reply in Opposition to Motion of GameFly, Inc., to Establish Standards and Procedures to Govern Proceedings on Remand, March 14, 2013 (Postal Service Reply); Response of GameFly, Inc., to March 14 USPS Opposition to GameFly Motion to Establish Standards and Proceedings on Remand, March 18, 2013 (GameFly Response). Accompanying the GameFly Response was a motion requesting leave to respond to the Postal Service Reply. Motion of GameFly, Inc., for Leave to Respond to March 14 USPS Opposition to March 7 GameFly Motion, March 18, 2013. The motion for leave to respond is granted.

[4] Docket No. C2009–1, Complaint of GameFly, Inc., April 23, 2009, at 1 (Complaint).

Id. at 8–9. GameFly asserted that, unlike Netflix and Blockbuster, it decided to add a protective cardboard insert and mail its DVDs as two-ounce First-Class flats in order to avoid automated machines and reduce the risk of breakage. *Id.* at 5. At the time the Complaint was filed, the First-Class one-ounce letter rate was $0.42 and the First-Class two-ounce flat rate was $1.00. *Id.* at 6.

Determination of undue discrimination. After extensive discovery, testimony, filings, and hearings, the Commission issued an order in which it determined that the Postal Service had unduly discriminated against GameFly.[5] The Commission reached this conclusion by using a three-part test that considered whether: (1) GameFly had been offered less favorable rates or terms and conditions than another mailer; (2) GameFly was similarly situated to the other mailer; and (3) there was no rational or legitimate basis for the Postal Service to deny it the more favorable rates or terms or conditions provided to the other mailer. *Id.* at 28. The Commission determined that all three prongs of the test had been satisfied. *Id.* at 108.

GameFly's proposed remedies. Although it found that the Postal Service had unduly discriminated against GameFly, the Commission rejected the two remedies suggested by GameFly. The first was an operational remedy that would have required the Postal Service to offer ''a measurable and enforceable level of manual culling and processing of DVD mailers sent at machinable letter rates.'' *Id.* at 110. The Commission explained that it was reluctant to assume responsibility for oversight of Postal Service operations at the level proposed by GameFly and wary of the ''significant administrative costs'' that the Postal Service could incur attempting to enforce a particular level of manual culling and processing. *Id.* at 111.

GameFly's second proposed remedy was a rate-based remedy, under which the Postal Service would have been required to publish a reduced rate for flat-shaped DVD mailers designed to produce the same average contribution per piece for both flat-shaped and letter-shaped DVD mail (the ''equal contribution remedy''). *Id.* The Commission rejected this second proposed remedy because the models used by GameFly's witness in support of this remedy were ''not sufficiently accurate'' to establish an appropriate rate. *Id.* at 112. The Commission stated a preference for allowing the Postal Service, rather than the Commission, to ''exercise statutory flexibility'' in ratemaking and expressed concern that the rate-based remedy ''fails to directly address the consequences of the preferential treatment afforded Netflix.'' *Id.* at 112–113.

Commission remedy. In lieu of GameFly's proposed remedies, the Commission opted to establish a ''niche classification'' for round-trip DVD mail. *Id.* at 113. Order No. 718 added a ''Letter Round-Trip Mailer'' category and a ''Flat Round-Trip Mailer'' category to the Mail Classification Schedule (MCS). *Id.* Appendix B. The Letter Round-Trip Mailer category allowed round-trip DVD mailers to send one-ounce letter-shaped mail at the single-piece machinable letter rate and prevented the Postal Service from applying a non-machinable surcharge to such mail. *Id.* at 1. The Flat Round-Trip Mailer category allowed round-trip DVD mailers to send flat-shaped mail of up to two ounces at the one-ounce single-piece First-Class flats rate. *Id.* at 2. The Commission characterized this remedy as providing GameFly with treatment comparable to the treatment the Postal Service gave Netflix. *Id.* at 114. However, the remedy also resulted in a higher rate and a higher per-piece contribution for round-trip DVD mail sent as flats. *Id.* at 115. The Commission found the higher rates and contribution to be justified by ''cost differences and by general pricing differences between First-Class Mail flat and letter products.'' *Id.*

D.C. Circuit Opinion. Unsatisfied with the remedy imposed by Order No. 718, GameFly filed an appeal with the Court. The Postal Service elected not to appeal the Commission's finding of undue discrimination, but did participate in the appellate proceedings in support of the remedy prescribed by Order No. 718.

The Court rejected the Commission's remedy because it left in place part of the discrimination it was attempting to remedy without explaining why the ''residual discrimination'' was due or reasonable. 704 F.3d at 149. The residual discrimination identified by the Court consisted of continuing differences in the terms of service offered to DVD mailers of letter-shaped and flat-shaped mail. The Court explained that the Commission ''cannot justify the terms of service discrimination its remedy leaves in place (providing manual letter processing to Netflix but not to GameFly) based on the companies' use of different mailers when the use of different mailers is itself the product of the service discrimination.'' *Id.*

The Court vacated the Commission's order and remanded the case to the Commission to ''either remedy all discrimination or explain why any residual discrimination is due or reasonable under § 403.'' *Id.* It expressed the opinion that the Commission would ''surely consider'' GameFly's proposed remedies on remand, but noted that ''there may be a range of other possible remedies which would withstand appellate review.'' *Id.*

III. GameFly Motion, Postal Service Reply, and GameFly Response

In response to *GameFly,* the parties filed a series of documents setting out their respective positions and expectations for proceedings on remand. The first of these was the GameFly Motion, followed by the Postal Service Reply and the GameFly Response.

GameFly Motion. The GameFly Motion begins by outlining the issues that GameFly considers to have been resolved by the Court's Opinion. GameFly Motion at 1–8. It then sets forth a new proposed remedy and several possible alternatives, as well as the standards and procedures that GameFly asserts should be used to evaluate any alternative remedies. *Id.* at 8–18.

GameFly's new remedy would require the Postal Service to charge the First-Class Mail letter rate for all round-trip DVD mailers, whether they choose to mail letters or flats. *Id.* at 9. GameFly characterizes this remedy as ''the next best alternative'' to requiring the Postal Service to provide GameFly's mail with the same degree of manual processing that Netflix receives for its letter-shaped DVD mail. *Id.* at 11. In proposing this remedy, GameFly withdraws its previous request for the equal contribution remedy. *Id.* GameFly argues that the Commission should impose its new remedy immediately, without re-opening the record in this docket. *Id.* at 13.

GameFly also identifies two alternatives to its new, preferred remedy. The first of these alternatives would allow the Postal Service 30 days to propose a rate for DVD mailers that is the same for both flats and letters but higher than the preferred remedy's First-Class Mail letter rate. *Id.* at 14. GameFly asserts that the Postal Service should be required to provide certain additional information to support any such proposed rate. *Id.* If the Postal Service were to choose not to submit a proposed new rate within 30 days, GameFly would have the Commission establish a new rate for both letter- and flat-shaped

[5] Order on Complaint, April 20, 2011, at 108 (Order No. 718).

DVD mail at the First-Class Mail letter rate. *Id.*

GameFly's second proposed alternative remedy is an operational remedy that would require the Postal Service to either provide the same level of manual processing to Netflix and GameFly mail or to discontinue manual processing of Netflix mail. *Id.* at 15. GameFly argues that the record in this docket ''imposes a heavy presumption'' against an operational remedy, citing potential problems with enforcement. *Id.* at 15–16. GameFly suggests that if the Commission adopts an operational remedy, the Postal Service should be required to provide certain information in support of that remedy. *Id.* at 17–18.

Postal Service reply. The Postal Service Reply rejects the remedies proposed in the GameFly Motion, arguing instead that the Commission should maintain its original remedy, but explain better why that remedy addresses any residual discrimination. Postal Service Reply at 2, 10–14. The Postal Service also takes issue with GameFly's list of settled issues, asserting that GameFly is attempting to eliminate the Commission's discretion and authority by preventing the Commission from re-opening the record and obtaining additional guidance. *Id.* at 2.

The Postal Service asserts that the record contains sufficient evidence for the Commission to explain to the Court's satisfaction that its original remedy was sound and that any remaining discrimination is due to local operational decisions dictated by differences in the volume, density, and appearance of Netflix's and GameFly's mail. *Id.* at 11–12.

The Postal Service argues further that any rate-based remedy would require the Commission to re-open the record to conform with ''statutory and regulatory provisions governing the establishment of rates and classifications under the [Postal Accountability and Enhancement Act]'' and to respect the Postal Service's authority to direct its own operational policies. *Id.* at 6. It states that the record in this docket lacks sufficient evidence to support GameFly's proposed rate-based remedy. *Id.* at 6–7. The Postal Service warns that GameFly's remedy would ''inevitably lead to questions about the presence and effects of discrimination embodied in all rates, and the Mail Classification Schedule in general.'' *Id.* at 8.

Finally, the Postal Service argues that the record does not reflect changes in the processing of DVD mail and ''major parts of the operating environment'' that have occurred since the record in this docket was established. *Id.* at 9.

GameFly response. GameFly responds to the Postal Service Reply by reiterating its position that the Postal Service is not permitted to relitigate factual issues resolved by Order No. 718 (either before the Commission or before the Court in a future appeal) or the findings of *GameFly.* GameFly Response at 4–6.

GameFly concedes that there may be alternative remedies available that would require the Commission to re-open the record. *Id.* at 8. However, GameFly asserts that the degree to which the record should be re-opened will depend on the particular alternative remedy. *Id.* For instance, GameFly believes that its first alternative remedy (price equalization at a rate established by the Postal Service) would require little additional information, but that its second alternative remedy (operational directives) may require ''more elaborate fact-finding.'' *Id.* at 8–9.

GameFly contends that, rather than attempting to place substantive limits on potential remedies, it is proposing filing requirements designed to elicit the information necessary to support an alternative remedy. *Id.* at 9. It asserts that each of these filing requirements is reasonable in light of the nature of the proposed alternative remedies. *Id.* at 10. In particular, it asserts that because the Postal Service argued against an operational remedy in earlier proceedings in this docket, the Postal Service must make additional showings if it now believes an operational remedy is justified. *Id.*

Finally, GameFly argues that a remedy that equalized rates for letter- and flat-shaped DVD mailers is neither discriminatory against other flat-shaped mail nor likely to have a significant impact on the Postal Service's financial situation. *Id.* at 11–12.

IV. Analysis

The Commission has before it several remedies which the parties believe would satisfy the court's directive to ''either remedy all discrimination or explain why any residual discrimination is due or reasonable under § 403.'' 704 F.3d at 149. GameFly prefers a remedy that establishes an identical rate for round-trip DVD letter and flats mail that is equal to the First-Class Mail letter rate. GameFly Motion at 8–13. The Postal Service vigorously opposes GameFly's preferred remedy and encourages the Commission to stand by the remedy prescribed by Order No. 718. Postal Service Reply at 4–5, 10–11 (''there is sufficient evidence in the existing record to support the original remedy, and the Commission has the authority to conduct proceedings for that purpose, if necessary.'').

The Court has given the Commission sufficient latitude to consider both of these remedies, as well as others including the two remedies originally proposed by GameFly. 704 F.3d at 149 (''Upon rehearing, the Commission will surely consider those [*i.e.,* GameFly's earlier] remedies, but there may be a range of other possible remedies which would withstand appellate review.''; ''The Commission must either remedy all discrimination or explain why any residual discrimination is due or reasonable under § 403.'').

The Commission is considering various remedies, each of which is intended to satisfy the Court's directive. The Commission has identified, at least preliminarily, the following options:[6]

GameFly proposed remedies:

- An equal rate remedy;
- An equal contribution remedy;

Postal Service proposed remedy:

- Original remedy set forth in Order No. 718 with additional explanation as to why the residual discrimination is justified; Remedies identified by the Commission:
- A remedy that retains the Letter Round-Trip DVD Mailer and Flat Round-Trip DVD Mailer categories created by Order No. 718, imposes a requirement that the Postal Service manually process all letter-shaped DVD mail, and establishes an enforcement mechanism to ensure manual processing is occurring at a certain level;
- An operational remedy that would eliminate all special treatment of DVDs and impose rates that apply to the mailpiece, *e.g.,* the non-machinable surcharge and second ounce rates; and
- An operational remedy that would require manual handling of all letter-shaped DVDs subject to certain standards.

The Appendix provides a brief description of these alternatives. The options outlined above do not foreclose the parties from fashioning their own mutually agreeable relief.

The parties take different positions on whether, and to what extent, further administrative hearings (including additional discovery) might be necessary to resolve the remedy issue. GameFly advocates the immediate imposition of its preferred rate-based remedy on the basis of the existing record. GameFly Motion at 12. The Postal Service appears to advocate a re-opening of the record to revisit many of

[6] There is no significance to the order in which the options are presented. As noted below, the Commission has made no decision about any possible remedy.

the issues decided in Order No. 718. Postal Service Reply at 5–8.[7]

Given the significant differences between their positions on remand, the parties could be headed toward further prolonged administrative and appellate review proceedings. Such a result is neither in the public interest nor the best interest of a sound administrative process. This prolonged proceeding has already consumed substantial resources of the parties and the Commission. There is no assurance that a Commission imposed remedy will be satisfactory to both parties. The Commission believes that it is in the public interest and prudent for all concerned to explore the possibility of resolving the remedy issue by settlement. Accordingly, the Commission is convening a settlement conference to be attended by representatives of GameFly, the Postal Service, intervenors, and the Public Representative previously appointed to this proceeding.

The Commission takes this step with the hope that a better sense of the remedies under consideration on remand may allow the parties to address their differences and reach a mutually agreeable outcome. As yet, the Commission has made no decision on a possible remedy and expresses no preference among those described in this Order. It fully expects that the parties will make the most of this opportunity to fashion a remedy acceptable to both without the unnecessary use of time or resources.

V. Settlement Procedures

Initial meeting. Pursuant to 39 CFR 3030.40, the Commission will convene a settlement conference on April 23, 2013. To facilitate discussions, the Commission appoints James Waclawski as settlement coordinator. In discussing the possibility of settlement, the parties are free to consider the remedies identified above and any others they deem appropriate. Among the factors they should bear in mind is the desirability of avoiding an unnecessary re-opening of the record.

Expeditious proceedings. Time is of the essence. The purpose of these settlement discussions is to allow the parties an opportunity to identify a mutually agreeable remedy as expeditiously as possible. The Commission has no desire to delay unnecessarily the resolution of the outstanding issues in this docket. To that end, the Commission directs the settlement coordinator to discourage dilatory behavior by the parties and to notify the Commission as soon as possible if he determines that negotiations between the parties are unlikely to be fruitful. The settlement coordinator shall file a report on the progress of settlement not later than 20 days after the issuance of this Order.

Should the parties fail to agree on an appropriate remedy, the Commission will rule on the GameFly Motion and will proceed with all reasonable dispatch to complete the remand proceeding and satisfy its obligation ''either to remedy all discrimination or to explain why any discrimination it left in place was due or reasonable under § 403(c).'' 704 F.3d at 148. Whether further administrative proceedings will be needed to create a record adequate to support the remedy ultimately selected by the Commission is a matter that will be determined by further order of the Commission.

It is ordered:

1. The Commission convenes a settlement conference at its offices at 10:00 a.m. on April 23, 2013, for the purpose of reaching agreement on a remedy of the undue discrimination previously found to exist by Order No. 718.

2. The Commission directs GameFly and the Postal Service to immediately engage in settlement negotiations with the goal of expeditiously resolving this controversy based on the potential remedies and considerations discussed in this Order.

3. The Commission appoints James Waclawski as settlement coordinator concerning the settlement discussions ordered herein and to coordinate those discussions.

4. The Commission directs the settlement coordinator to file a report not later than 20 days after the date of this order.

5. Emmett Rand Costich, previously appointed in this proceeding as Public Representative, shall continue in that capacity to represent the interests of the general public.

6. The Commission directs the Secretary of the Commission to arrange for publication of this Order in the **Federal Register**.

Appendix—Summary Descriptions of Potential Remedies

I. GameFly Proposed Remedies

a. Equal Rate Treatment

Rates for letter- and flat-shaped DVD mail at the First-Class Mail letter rate would be equalized either at the current first ounce letter rates or at rates higher than the First-Class Mail letter rate.

b. An Equal Contribution Remedy

An equal contribution remedy would reduce rates for flat-shaped DVD mail to a level that would produce an equal contribution for letter- and flat-shaped DVD mail. The Commission rejected GameFly's proposed equal contribution remedy, in part, on the limitations of the then-current record.[8] This option may require the parties to develop supplemental or revised cost data to address the deficiencies of the then-record data.

II. Postal Service Proposed Remedy

A remedy that would require an explanation of why any residual discrimination is due or reasonable, such as the Commission's original remedy. This would preserve the remedy adopted in Order No. 718, permitting DVD mailers either to send one-ounce letter-shaped mail without paying a non-machinable surcharge or to send flat-shaped mail of up to two-ounces at the applicable one-ounce single-piece First-Class flat rates. Order No. 718 at 1–2. This remedy could require the Commission to provide a more extensive and persuasive explanation of the rationale for any remaining discrimination in order to withstand further appellate review.

III. Remedies Identified by the Commission

a. Retain the Letter Round-Trip DVD Mailer and Flat Round-Trip DVD Mailer categories, impose a requirement that the Postal Service manually process all letter-shaped DVD mail, and establish an enforcement mechanism to ensure manual processing is occurring at a certain level.

This remedy would retain the Letter Round-Trip Mailer and Flat Round-Trip Mailer categories and rates as established in Order No. 718. It would require the Postal Service to provide manual processing for all letter-shaped DVD mail and it would establish an enforcement mechanism to ensure that a certain level of manual processing was in fact provided. Mailers who are satisfied with the prescribed level of manual processing could send their DVDs as letter mail. Mailers who are not satisfied with the prescribed level of manual processing could send DVDs as flats and would get the second ounce free. If this remedy were adopted, mailers could choose the type of mail service that gives them the level of protection they desire.

b. An operational remedy that would eliminate all special treatment of DVDs and impose rates that apply to the mailpiece, e.g. the non-machinable surcharge and second ounce rates.

This remedy eliminating all special treatment of DVDs would require the Postal

[7] Without, at this juncture, ruling on the propriety of revisiting any of these subjects in the context of developing a remedy, the Commission notes that its finding of undue discrimination, which was not challenged by the Postal Service in the appellate proceedings, is final and has not been remanded by the Court for further Commission consideration.

[8] Order No. 718 at 112, ¶ 5019 (''Even if the Commission were to accept GameFly's contention that the cost differences do not justify the extent of the difference in rates paid by the mailers, such estimates are not sufficiently accurate to be used to design a rate for flat-shaped round-trip DVD mailers in the manner suggested by GameFly's rate-based remedy.'').

Service to collect a non-machinable surcharge on all letter-shaped DVD mail. The Letter Round-Trip Mailer and Flat Round-Trip Mailer categories established in Order No. 718 would be eliminated and the Postal Service would impose the full charge for the second ounce of First-Class DVD flats mail.

c. An operational remedy that would require manual handling of all letter-shaped DVDs subject to certain standards.

The remedy would require the Postal Service to provide uniform manual processing to all letter-shaped DVD mail, *e.g.,* the type afforded Netflix's mail. The non-machinable surcharge would not be imposed. However, the Letter Round-Trip Mailer and Flat Round-Trip Mailer categories would not be retained. While manual processing of DVD letter mail would be made available to all mailers on a non-discriminatory basis, it nevertheless would recognize that operational factors can affect the feasibility of providing manual processing at any point in time and that individual mailers cannot be guaranteed the exact same level of manual processing. This recognition that manual processing levels may fluctuate and vary from mailer to mailer distinguishes this operational remedy from the GameFly operational remedy that would require that each mailer receive the same level of manual processing. Enforcement of the requirement that such manual processing be provided on a non-discriminatory basis could be facilitated by requiring the Postal Service to monitor and report manual processing levels, *e.g.,* based on IMb scans.

Appendix—Summary Descriptions of Potential Remedies

I. GameFly Proposed Remedies

a. Equal Rate Treatment

Rates for letter- and flat-shaped DVD mail at the First-Class Mail letter rate would be equalized either at the current first ounce letter rates or at rates higher than the First-Class Mail letter rate.

b. An Equal Contribution Remedy

An equal contribution remedy would reduce rates for flat-shaped DVD mail to a level that would produce an equal contribution for letter- and flat-shaped DVD mail. The Commission rejected GameFly's proposed equal contribution remedy, in part, on the limitations of the then-current record.[9] This option may require the parties to develop supplemental or revised cost data to address the deficiencies of the then-record data.

II. Postal Service Proposed Remedy

A remedy that would require an explanation of why any residual discrimination is due or reasonable, such as the Commission's original remedy. This would preserve the remedy adopted in Order No. 718, permitting DVD mailers either to send one-ounce letter-shaped mail without paying a non-machinable surcharge or to send flat-shaped mail of up to two-ounces at the applicable one-ounce single-piece First-Class flat rates. Order No. 718 at 1–2. This remedy could require the Commission to provide a more extensive and persuasive explanation of the rationale for any remaining discrimination in order to withstand further appellate review.

III. Remedies Identified by the Commission

a. Retain the Letter Round-Trip DVD Mailer and Flat Round-Trip DVD Mailer categories, impose a requirement that the Postal Service manually process all letter-shaped DVD mail, and establish an enforcement mechanism to ensure manual processing is occurring at a certain level.

This remedy would retain the Letter Round-Trip Mailer and Flat Round-Trip Mailer categories and rates as established in Order No. 718. It would require the Postal Service to provide manual processing for all letter-shaped DVD mail and it would establish an enforcement mechanism to ensure that a certain level of manual processing was in fact provided. Mailers who are satisfied with the prescribed level of manual processing could send their DVDs as letter mail. Mailers who are not satisfied with the prescribed level of manual processing could send DVDs as flats and would get the second ounce free. If this remedy were adopted, mailers could choose the type of mail service that gives them the level of protection they desire.

b. An operational remedy that would eliminate all special treatment of DVDs and impose rates that apply to the mailpiece, e.g. the non-machinable surcharge and second ounce rates.

This remedy eliminating all special treatment of DVDs would require the Postal Service to collect a non-machinable surcharge on all letter-shaped DVD mail. The Letter Round-Trip Mailer and Flat Round-Trip Mailer categories established in Order No. 718 would be eliminated and the Postal Service would impose the full charge for the second ounce of First-Class DVD flats mail.

c. An operational remedy that would require manual handling of all letter-shaped DVDs subject to certain standards.

The remedy would require the Postal Service to provide uniform manual processing to all letter-shaped DVD mail, *e.g.,* the type afforded Netflix's mail. The non-machinable surcharge would not be imposed. However, the Letter Round-Trip Mailer and Flat Round-Trip Mailer categories would not be retained.

While manual processing of DVD letter mail would be made available to all mailers on a non-discriminatory basis, it nevertheless would recognize that operational factors can affect the feasibility of providing manual processing at any point in time and that individual mailers cannot be guaranteed the exact same level of manual processing. This recognition that manual processing levels may fluctuate and vary from mailer to mailer distinguishes this operational remedy from the GameFly operational remedy that would require that each mailer receive the same level of manual processing. Enforcement of the requirement that such manual processing be provided on a non-discriminatory basis could be facilitated by requiring the Postal Service to monitor and report manual processing levels, *e.g.,* based on IMb scans.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2013–09373 Filed 4–19–13; 8:45 am]

BILLING CODE 7710–FW–P

[9] Order No. 718 at 112, ¶ 5019 (''Even if the Commission were to accept GameFly's contention that the cost differences do not justify the extent of the difference in rates paid by the mailers, such estimates are not sufficiently accurate to be used to design a rate for flat-shaped round-trip DVD mailers in the manner suggested by GameFly's rate-based remedy.'').

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 15b1–1 and Form BD; SEC File No. 270–19, OMB Control No. 3235–0012.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 15b1–1(17 CFR 240.15b1–1) and Form BD (17 CFR 249.501) under the Securities Exchange Act of 1934 (17 U.S.C. 78a *et seq.*).

Form BD is the application form used by firms to apply to the Commission for registration as a broker-dealer, as required by Rule 15b1–1. Form BD also is used by firms other than banks and registered broker-dealers to apply to the Commission for registration as a municipal securities dealer or a government securities broker-dealer. In addition, Form BD is used to change information contained in a previous Form BD filing that becomes inaccurate.

The total industry-wide annual time burden imposed by Form BD is approximately 5,941 hours, based on approximately 15,890 responses (288 initial filings + 15,602 amendments). Each application filed on Form BD requires approximately 2.75 hours to complete and each amended Form BD requires approximately 20 minutes to complete. (288 × 2.75 hours = 792 hours; 15,602 × 0.33 hours = 5,149 hours; 792 hours + 5,149 hours = 5,941 hours.) The staff believes that a broker-dealer would have a Compliance Manager complete and file both applications and amendments on Form

BD at a cost of $279/hour. Consequently, the staff estimates that the total internal cost of compliance associated with the annual time burden is approximately $1,657,539 per year ($279 × 5941). There is no external cost burden associated with Rule 15b1–1 and Form BD.

The Commission uses the information disclosed by applicants in Form BD: (1) To determine whether the applicant meets the standards for registration set forth in the provisions of the Exchange Act; (2) to develop a central information resource where members of the public may obtain relevant, up-to-date information about broker-dealers, municipal securities dealers and government securities broker-dealers, and where the Commission, other regulators and SROs may obtain information for investigatory purposes in connection with securities litigation; and (3) to develop statistical information about broker-dealers, municipal securities dealers and government securities broker-dealers. Without the information disclosed in Form BD, the Commission could not effectively implement policy objectives of the Exchange Act with respect to its investor protection function.

Completing and filing Form BD is mandatory in order to engage in broker-dealer activity. Compliance with Rule 15b1–1 does not involve the collection of confidential information. 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 public may view background documentation for this information collection at the following Web site, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 16, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–09322 Filed 4–19–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 606 of Regulation NMS.

SEC File No. 270–489, OMB Control No. 3235–0541.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') has submitted to the office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 606 of Regulation NMS (''Rule 606'') (17 CFR 242.606) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et. seq.*).

Rule 606 (formerly known as Rule 11Ac1–6) requires broker-dealers to prepare and disseminate quarterly order routing reports. Much of the information needed to generate these reports already should be collected by broker-dealers in connection with their periodic evaluations of their order routing practices. Broker-dealers must conduct such evaluations to fulfill the duty of best execution that they owe their customers.

The collection of information obligations of Rule 606 apply to broker-dealers that route non-directed customer orders in covered securities. The Commission estimates that out of the currently 5178 broker-dealers that are subject to the collection of information obligations of Rule 606, clearing brokers bear a substantial portion of the burden of complying with the reporting and recordkeeping requirements of Rule 606 on behalf of small to mid-sized introducing firms. There currently are approximately 527 clearing brokers. In addition, there are approximately 2426 introducing brokers that receive funds or securities from their customers. Because at least some of these firms also may have greater involvement in determining where customer orders are routed for execution, they have been included, along with clearing brokers, in estimating the total burden of Rule 606.

The Commission staff estimates that each firm significantly involved in order routing practices incurs an average burden of 40 hours to prepare and disseminate a quarterly report required by Rule 606, or a burden of 160 hours per year. With an estimated 2953 [1] broker-dealers significantly involved in order routing practices, the total industry-wide burden per year to comply with the quarterly reporting requirement in Rule 606 is estimated to be 472,480 hours (160 × 2953).

Rule 606 also requires broker-dealers to respond to individual customer requests for information on orders handled by the broker-dealer for that customer. Clearing brokers generally bear the burden of responding to these requests. The Commission staff estimates that an average clearing broker incurs an annual burden of 400 hours (2000 responses × 0.2 hours/response) to prepare, disseminate, and retain responses to customers required by Rule 606. With an estimated 527 clearing brokers subject to Rule 606, the total industry-wide burden per year to comply with the customer response requirement in Rule 606 is estimated to be 210,800 hours (527 × 400).

The collection of information obligations imposed by Rule 606 are mandatory. The responses will be available to the public and will not be kept confidential.

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 public may view background documentation for this information collection at the following Web site, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 16, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–09324 Filed 4–19–13; 8:45 am]

BILLING CODE 8011–01–P

[1] 527 clearing brokers + 2426 introducing brokers = 2953.

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:
Rule 17f–4; OMB Control No. 3235–0225, SEC File No. 270–232.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (the ''Paperwork Reduction Act''), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Section 17(f) (15 U.S.C. 80a–17(f)) under the Investment Company Act of 1940 (the ''Act'') [1] permits registered management investment companies and their custodians to deposit the securities they own in a system for the central handling of securities (''securities depositories''), subject to rules adopted by the Commission.

Rule 17f–4 (17 CFR 270.17f–4) under the Act specifies the conditions for the use of securities depositories by funds [2] and their custodians.

The Commission staff estimates that 140 respondents (including an estimated 79 active funds that may deal directly with a securities depository, an estimated 42 custodians, and 19 possible securities depositories) [3] are subject to the requirements in rule 17f–4. The rule is elective, but most, if not all, funds use depository custody arrangements.[4]

Rule 17f–4 contains two general conditions. First, a fund's custodian must be obligated, at a minimum, to exercise due care in accordance with reasonable commercial standards in discharging its duty as a securities intermediary to obtain and thereafter maintain financial assets.[5] This obligation does not contain a collection of information because it does not impose identical reporting, recordkeeping or disclosure requirements. Funds and custodians may determine the specific measures the custodian will take to comply with this obligation.[6] If the fund deals directly with a depository, the depository's contract or written rules for its participants must provide that the depository will meet similar obligations,[7] which is a collection of information for purposes of the Paperwork Reduction Act. All funds that deal directly with securities depositories in reliance on rule 17f–4 should have either modified their contracts with the relevant securities depository, or negotiated a modification in the securities depository's written rules when the rule was amended. Therefore, we estimate there is no ongoing burden associated with this collection of information.[8]

Second, the custodian must provide, promptly upon request by the fund, such reports as are available about the internal accounting controls and financial strength of the custodian.[9] If a fund deals directly with a depository, the depository's contract with or written rules for its participants must provide that the depository will provide similar financial reports,[10] which is a collection of information for purposes of the Paperwork Reduction Act. Custodians and depositories usually transmit financial reports to funds twice each year.[11] The Commission staff estimates that 42 custodians spend approximately 787 hours (by support staff) annually in transmitting such reports to funds.[12] In addition, approximately 79 funds (*i.e.,* two percent of all funds) deal directly with a securities depository and may request periodic reports from their depository. Commission staff estimates that depositories spend approximately 18 hours (by support staff) annually transmitting reports to the 79 funds.[13] The total annual burden estimate for compliance with rule 17f–4's reporting requirement is therefore 805 hours.[14]

If a fund deals directly with a securities depository, rule 17f–4 requires that the fund implement internal control systems reasonably designed to prevent an unauthorized officer's instructions (by providing at least for the form, content, and means of giving, recording, and reviewing all officers' instructions).[15] All funds that seek to rely on rule 17f–4 should have already implemented these internal control systems when the rule was amended. Therefore, there is no ongoing burden associated with this collection of information requirement.[16]

Based on the foregoing, the Commission staff estimates that the total annual hour burden of the rule's collection of information requirement is 805 hours.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. This estimate is not derived from a comprehensive or

[1] 15 U.S.C. 80a.

[2] As amended in 2003, rule 17f–4 permits any registered investment company, including a unit investment trust or a face-amount certificate company, to use a security depository. *See* Custody of Investment Company Assets With a Securities Depository, Investment Company Act Release No. 25934 (Feb. 13, 2003) (68 FR 8438 (Feb. 20, 2003)). The term ''fund'' is used in this Notice to mean a registered investment company.

[3] The Commission staff estimates that, as permitted by the rule, an estimated 2% of all active funds may deal directly with a securities depository instead of using an intermediary. The number of custodians is estimated based on information from Morningstar Direct[SM]. The Commission staff estimates the number of possible securities depositories by adding the 12 Federal Reserve Banks and 7 active registered clearing agencies. The Commission staff recognizes that not all of these entities may currently be acting as a securities depository for fund securities.

[4] Based on responses to Item 18 of Form N–SAR (17 CFR 274.101), approximately 98 percent of funds' custodians maintain some or all fund securities in a securities depository pursuant to rule 17f–4.

[5] Rule 17f–4(a)(1). This provision incorporates into the rule the standard of care provided by section 504(c) of Article 8 of the Uniform Commercial Code when the parties have not agreed to a standard. Rule 17f–4 does not impose any substantive obligations beyond those contained in Article 8. Uniform Commercial Code, Revised Article 8—Investment Securities (1994 Official Text with Comments) (''Revised Article 8'').

[6] Moreover, the rule does not impose any requirement regarding evidence of the obligation.

[7] Rule 17f–4(b)(1)(i).

[8] The Commission staff assumes that new funds relying on 17f–4 would choose to use a custodian instead of directly dealing with a securities depository because of the high costs associated with maintaining an account with a securities depository. Thus, new funds would not be subject to this condition.

[9] Rule 17f–4(a)(2).

[10] Rule 17f–4(b)(1)(ii).

[11] The estimated 42 custodians would handle requests for reports from an estimated 3,371 fund clients (approximately 80 fund clients per custodian) and the depositories from the remaining 79 funds that choose to deal directly with a depository. It is our understanding based on staff conversations with industry representatives that custodians and depositories transmit these reports to clients in the normal course of their activities as a good business practice regardless of whether they are requested. Therefore, for purposes of this Paperwork Reduction Act estimate, the Commission staff assumes that custodians transmit the reports to all fund clients.

[12] (3,371 fund clients × 2 reports) = 6,742 transmissions. The staff estimates that each transmission would take approximately 7 minutes for a total of approximately 787 hours (7 minutes × 6,742 transmissions).

[13] (79 fund clients who may deal directly with a securities depository × 2 reports) = 158 transmissions. The staff estimates that each transmission would take approximately 7 minutes for a total of approximately 18 hours (7 minutes × 158 transmissions).

[14] 787 hours for custodians and 18 hours for securities depositories.

[15] Rule 17f–4(b)(2).

[16] The Commission staff assumes that new funds relying on 17f–4 would choose to use a custodian instead of directly dealing with a securities depository because of the high costs associated with maintaining an account with a securities depository. Thus new funds would not be subject to this condition.

even representative survey or study of the costs of Commission rules.

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 control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: April 16, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–09321 Filed 4–19–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30464; 812–14104]

Fidelity Merrimack Street Trust, et al.; Notice of Application

April 16, 2013.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

APPLICANTS: Fidelity Merrimack Street Trust (the ''Trust''), Fidelity Management & Research Company (the ''Adviser'') and Fidelity Distributors Corporation (the ''Distributor'').

SUMMARY OF APPLICATION: Applicants request an order that permits: (a) Actively-managed series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days from the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts to acquire Shares; and (f) certain series to perform creations and redemptions of Shares in-kind in a master-feeder structure.

DATES: *Filing Dates:* The application was filed on December 7, 2012, and amended on March 27, 2013. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 9, 2013, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: 82 Devonshire Street, V10E, Boston, MA 02109.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel, at (202) 551–6817 or Daniele Marchesani, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust will be registered as an open-end management investment company under the Act and is a business trust organized under the laws of Massachusetts. The Trust initially will offer one series, the Fidelity Corporate Bond ETF (''Initial Fund''), which will seek a high level of current income.

2. Fidelity Management & Research Company, a Massachusetts corporation, is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') and will serve as investment adviser to the Initial Fund. The Adviser may in the future retain one or more sub-advisers (each a ''Sub-Adviser'') to manage the portfolios of the Funds, or its respective Master Fund (each as defined below). Any Sub-Adviser will be registered, or not subject to registration, under the Advisers Act. The Distributor, a registered broker-dealer (''Broker'') under the Securities Exchange Act of 1934 (''Exchange Act''), is an affiliated person of the Adviser, and will act as the distributor and principal underwriter of the Funds.[1]

3. Applicants request that the order apply to the Initial Fund and any future series of the Trust and to any other open-end management companies or series thereof that utilize active management investment strategies (''Future Funds''). Any Future Fund will (a) be advised by the Adviser or an entity controlling, controlled by, or under common control with the Adviser (each, an ''Adviser''), and (b) comply with the terms and conditions of the application.[2] The Initial Fund and Future Funds together are the ''Funds.'' Each Fund will consist of a portfolio of securities and other assets and positions (''Portfolio Positions'').[3] Funds may invest in ''Depositary Receipts.''[4] Each

[1] Applicants request that the order also apply to future distributors that comply with the terms and conditions of the application.

[2] Any Adviser to a Future Fund will be registered as an investment adviser under the Advisers Act. All entities that currently intend to rely on the order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application.

[3] If a Fund (or its respective Master Fund) invests in derivatives: (a) The board of trustees (''Board'') of the Fund periodically will review and approve the Fund's (or its respective Master Fund's) use of derivatives and how the Fund's investment adviser assesses and manages risk with respect to the Fund's (or its respective Master Fund's) use of derivatives; and (b) the Fund's disclosure of its use of derivatives in its offering documents and periodic reports will be consistent with relevant Commission and Commission staff guidance.

[4] Depositary Receipts are typically issued by a financial institution, a ''depositary'', and evidence ownership in a security or pool of securities that have been deposited with the depositary. A Fund

Continued

Fund will operate as an actively managed exchange-traded fund (''ETF'').

4. Applicants also request that any exemption under section 12(d)(1)(J) of the Act from sections 12(d)(1)(A) and (B) apply to: (i) Any Fund that is currently or subsequently part of the same ''group of investment companies'' as the Initial Fund within the meaning of section 12(d)(1)(G)(ii) of the Act; (ii) any principal underwriter for the Fund; (iii) any Brokers selling Shares of a Fund to an Investing Fund (as defined below); and (iv) each management investment company or unit investment trust registered under the Act that is not part of the same ''group of investment companies'' as the Funds within the meaning of section 12(d)(1)(G)(ii) of the Act and that enters into a FOF Participation Agreement (as defined below) with a Fund (such management investment companies, ''Investing Management Companies,'' such unit investment trusts, ''Investing Trusts,'' and Investing Management Companies and Investing Trusts together, ''Investing Funds''). Investing Funds do not include the Funds.[5] The relief would permit the Investing Funds to acquire Shares of the Funds beyond the limitations set forth in section 12(d)(1)(A), and the Funds, their principal underwriters and any Brokers to sell Shares of the funds to Investing Funds beyond the limitations set forth in section 12(d)(1)(B) (''Fund of Funds Relief'').[6]

5. A Fund may operate as a feeder fund in a master-feeder structure (''Feeder Fund''). Applicants request that the order permit a Feeder Fund that is advised by the Adviser to acquire shares of another registered investment company in the same group of investment companies having the identical investment investment objectives as the Feeder Fund (''Master Fund'') beyond the limitation in section 12(d)(1)(A) and permit the Master Fund, and any principal underwriter for the Master Fund, to sell shares of the Master Fund to the Feeder Fund beyond the limitations in section 12(d)(1)(B) (''Master-Feeder Relief''). Applicants may structure certain Feeder Funds to generate economies of scale and incur lower overhead costs.[7] There would be no ability by Fund shareholders to exchange Shares of Feeder Funds for shares of another feeder of the Master Fund.

6. Applicants state that Shares of each Fund will be purchased from the Trust only in Creation Units (e.g., at least 25,000 Shares). Applicants anticipate that the trading price of a Share will range from $25 to $100. All orders to purchase Creation Units must be placed with the Distributor by or through a party that has entered into a participant agreement with the Distributor and the transfer agent of the Fund (''Authorized Participant'') with respect to the creation and redemption of Creation Units. An Authorized Participant is either: (a) A Broker or other participant in the Continuous Net Settlement System of the National Securities Clearing Corporation (''NSCC''), a clearing agency registered with the Commission and affiliated with the Depository Trust Company (''DTC''), or (b) a participant in the DTC (such participant, ''DTC Participant'').

7. In order to keep costs low and permit each Fund to be as fully invested as possible, Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[8] On any given Business Day[9] the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, and these instruments may be referred to, in the case of either a purchase or redemption, as the ''Creation Basket.'' In addition, the Creation Basket will correspond pro rata to the positions in a Fund's (or its respective Master Fund's) portfolio (including cash positions),[10] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots;[11] or (c) TBA Transactions,[12] short positions and other positions that cannot be transferred in kind[13] will be excluded from the Creation Basket.[14] If there is a difference between NAV attributable to a Creation Unit and the aggregate market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Balancing Amount'').

8. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Balancing Amount, as described above; (b) if, on a given Business Day, a Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, a Fund determines to require the purchase or redemption, as applicable, to be made

will not invest in any Depositary Receipts that the Adviser or Sub-Adviser deems to be illiquid or for which pricing information is not readily available. No affiliated persons of applicants or any other Fund, any Adviser or Sub-Adviser will serve as the depositary bank for any Depositary Receipts held by a Fund (or its respective Master Fund), except a depositary bank that is deemed to be affiliated solely because a Fund owns greater than 5% of the outstanding voting securities of such depositary bank.

[5] An Investing Fund may rely on the order only to invest in Funds and not in any other registered investment company.

[6] Certain Future Funds may invest in other open-end and/or closed-end investment companies and/or ETFs in excess of the limits in section 12(d)(1)(A) (each such Fund, an ''FOF ETF''). In no case will a Fund that is an FOF ETF rely on the Fund of Funds Relief.

[7] Operating in a master-feeder structure could also impose costs on a Feeder Fund and reduce its tax efficiency. The Feeder Fund's Board will weigh the potential disadvantages against the benefits of economies of scale and other benefits of operating within a master-feeder structure. In a master-feeder structure, the Master Fund—rather than the Feeder Fund—would generally invest the portfolio in compliance with the requested order.

[8] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to Rule 144A under the Securities Act, the Funds will comply with the conditions of Rule 144A.

[9] Each Fund will sell and redeem Creation Units on any day the Fund is open, including as required by section 22(e) of the Act (each, a ''Business Day'').

[10] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's net asset value (''NAV'') for that Business Day.

[11] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[12] A TBA Transaction is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree on general trade parameters such as agency, settlement date, par amount and price.

[13] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[14] Because these instruments will be excluded from the Creation Basket, their value will be reflected in the determination of the Balancing Amount (defined below).

entirely in cash; (d) if, on a given Business Day, a Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC; or (ii) in the case of Funds holding non-U.S. investment (''Global Funds''), such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if a Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Global Fund would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[15]

9. Each Business Day, before the open of trading on a national securities exchange, as defined in section 2(a)(26) of the Act (''Stock Exchange''), on which Shares are listed, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Balancing Amount (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following Business Day, and there will be no intra-day changes to the Creation Basket except to correct errors in the published Creation Basket. Each Stock Exchange or other major market data provider will disseminate every 15 seconds throughout the trading day through the facilities of the Consolidated Tape Association an amount representing the estimated NAV, which will be calculated and disseminated in accordance with the relevant listing standards, on a per Share basis.

10. A Fund may recoup the settlement costs charged by NSCC and DTC by imposing a transaction fee on investors purchasing or redeeming Creation Units (the ''Transaction Fee''). The Transaction Fee will be borne only by purchasers and redeemers of Creation Units and will be limited to amounts that have been determined appropriate by the Adviser to defray the transaction expenses that will be incurred by a Fund when an investor purchases or redeems Creation Units.[16] With respect to Feeder Funds, the Transaction Fee would be paid indirectly to the Master Fund.[17]

11. All orders to purchase Creation Units will be placed with the Distributor by or through an Authorized Participant and the Distributor will transmit all purchase orders to the relevant Fund. The Distributor will be responsible for delivering a prospectus (''Prospectus'') to those persons purchasing Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it.

12. Shares will be listed and traded at negotiated prices on a Stock Exchange and traded in the secondary market. Applicants expect that Stock Exchange specialists (''Specialists'') or market makers (''Market Makers'') will be assigned to Shares. The price of Shares trading on the Stock Exchange will be based on a current bid/offer in the secondary market. Transactions involving the purchases and sales of Shares on the Stock Exchange will be subject to customary brokerage commissions and charges.

13. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Specialists or Market Makers, acting in their unique role to provide a fair and orderly secondary market for Shares, also may purchase Creation Units for use in their own market making activities.[18] Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[19] Applicants expect that arbitrage opportunities created by the ability to continually purchase or redeem Creation Units at their NAV per Share should ensure that the Shares will not trade at a material discount or premium in relation to their NAV.

14. Shares will not be individually redeemable and owners of Shares may acquire those Shares from a Fund, or tender such shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed by or through an Authorized Participant. As discussed above, redemptions of Creation Units will generally be made on an in-kind basis, subject to certain specified exceptions under which redemptions may be made in whole or in part on a cash basis.

15. No Fund will be marketed or otherwise held out as a ''mutual fund.'' Instead, each Fund will be marketed as an ''actively-managed exchange-traded fund.'' In any advertising material where features of obtaining, buying or selling Shares traded on the Stock Exchange are described there will be an appropriate statement to the effect that Shares are not individually redeemable.

16. The Funds' Web site, which will be publicly available prior to the public offering of Shares, will include a Prospectus and additional quantitative information updated on a daily basis, including, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or mid-point of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV. On each Business Day, before commencement of trading in Shares on the Stock Exchange, the Fund will disclose on its Web site the identities and quantities of the Portfolio

[15] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

[16] Where a Fund permits an in-kind purchaser to deposit cash in lieu of depositing one or more Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to offset the cost to the Fund of buying those particular Deposit Instruments. In all cases, the Transaction Fee will be limited in accordance with the requirements of the Commission applicable to open-end management investment companies offering redeemable securities.

[17] Applicants are not requesting relief from section 18 of the Act. Accordingly, a Master Fund may require a Transaction Fee payment to cover expenses related to purchases or redemptions of the Master Fund's shares by a Feeder Fund only if it requires the same payment for equivalent purchases or redemptions by any other feeder fund. Thus, for example, a Master Fund may require payment of a Transaction Fee by a Feeder Fund for transactions for 20,000 or more shares so long as it requires payment of the same Transaction Fee by all feeder funds for transactions involving 20,000 or more shares.

[18] If Shares are listed on The NASDAQ Stock Market LLC (''Nasdaq'') or a similar electronic Stock Exchange (including NYSE Arca), one or more member firms of that Stock Exchange will act as Market Maker and maintain a market for Shares trading on that Stock Exchange. On Nasdaq, no particular Market Maker would be contractually obligated to make a market in Shares. However, the listing requirements on Nasdaq, for example, stipulate that at least two Market Makers must be registered in Shares to maintain a listing. In addition, on Nasdaq and NYSE Arca, registered Market Makers are required to make a continuous two-sided market or subject themselves to regulatory sanctions. No Market Maker will be an affiliated person or an affiliated person of an affiliated person, of the Funds, except within the meaning of section 2(a)(3)(A) or (C) of the Act due solely to ownership of Shares as discussed below.

[19] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or DTC Participants.

Positions held by the Fund[20] that will form the basis for the Fund's calculation of NAV at the end of the Business Day.[21]

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit each Fund to redeem Shares in Creation Units only.[22] Applicants state that investors may purchase Shares in Creation Units from each Fund and redeem Creation Units from each Fund. Applicants further state that because the market price of Creation Units will be disciplined by arbitrage opportunities, investors should be able to sell Shares in the secondary market at prices that do not vary materially from their NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through a principal underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in the Prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers resulting from sales at different prices, and (c) assure an orderly distribution system of investment company shares by eliminating price competition from brokers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve the Funds as parties and cannot result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity should ensure that the difference between the market price of Shares and their NAV remains immaterial.

Section 22(e) of the Act

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants observe that settlement of redemptions of Creation Units of Global Funds is contingent not only on the settlement cycle of the U.S. securities markets but also on the delivery cycles present in foreign markets in which those Funds invest. Applicants have been advised that, under certain circumstances, the delivery cycles for transferring Portfolio Positions to redeeming investors, coupled with local market holiday schedules, will require a delivery process of up to 15 calendar days.[23] Applicants therefore request relief from section 22(e) in order to provide payment or satisfaction of redemptions within the maximum number of calendar days required for such payment or satisfaction in the principal local markets where transactions in the Portfolio Positions of each Global Fund customarily clear and settle, but in all cases no later than 15 calendar days following the tender of a Creation Unit.[24]

8. Applicants state that section 22(e) was designed to prevent unreasonable, undisclosed and unforeseen delays in the actual payment of redemption

[20] Feeder Funds will disclose information about the securities and other assets and positions held by the Master Fund.

[21] Applicants note that under accounting procedures followed by the Funds, trades made on the prior Business Day will be booked and reflected in NAV on the current Business Day. Accordingly, each Fund will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for its NAV calculation at the end of such Business Day.

[22] The Master Funds will not require relief from Sections 2(a)(32) and 5(a)(1) because the Master Funds will operate as traditional mutual funds and issue individually redeemable securities.

[23] In the past, settlements in certain countries, including Russia, has extended to 15 calendar days.

[24] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations that it may otherwise have under rule 15c6–1 under the Exchange Act. Rule 15c6–1 requires that most securities transactions be settled within three business days of the trade date.

proceeds. Applicants assert that the requested relief will not lead to the problems that section 22(e) was designed to prevent. Applicants state that allowing redemption payments for Creation Units of a Fund to be made within a maximum of 15 calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants state the SAI will disclose those local holidays (over the period of at least one year following the date of the SAI), if any, that are expected to prevent the delivery of redemption proceeds in seven calendar days and the maximum number of days needed to deliver the proceeds for each affected Global Fund. Applicants are not seeking relief from section 22(e) with respect to Global Funds that do not effect redemptions in-kind.[25]

9. With respect to Feeder Funds, only in-kind redemptions may proceed on a delayed basis pursuant to the relief requested from section 22(e). In the event of such an in-kind redemption, the Feeder Fund would make a corresponding redemption from the Master Fund. Applicants do not believe the master-feeder structure would have any impact on the delivery cycle.

Section 12(d)(1) of the Act

10. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, or any other broker or dealer from selling its shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

11. Applicants request relief to permit Investing Funds to acquire Shares in excess of the limits in section 12(d)(1)(A) of the Act and to permit the Funds, their principal underwriters and any Broker to sell Shares to Investing Funds in excess of the limits in section 12(d)(l)(B) of the Act. Applicants submit that the proposed conditions to the requested relief address the concerns underlying the limits in section 12(d)(1), which include concerns about undue influence, excessive layering of fees and overly complex structures.

12. Applicants submit that their proposed conditions address any concerns regarding the potential for undue influence. To limit the control that an Investing Fund may have over a Fund, applicants propose a condition prohibiting the adviser of an Investing Management Company (''Investing Fund Adviser''), sponsor of an Investing Trust (''Sponsor''), any person controlling, controlled by, or under common control with the Investing Fund Adviser or Sponsor, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by the Investing Fund Adviser, the Sponsor, or any person controlling, controlled by, or under common control with the Investing Fund Adviser or Sponsor (''Investing Fund's Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any sub-adviser to an Investing Management Company (''Investing Fund Sub-Adviser''), any person controlling, controlled by or under common control with the Investing Fund Sub-Adviser, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Investing Fund Sub-Adviser or any person controlling, controlled by or under common control with the Investing Fund Sub-Adviser (''Investing Fund's Sub-Advisory Group'').

13. Applicants propose a condition to ensure that no Investing Fund or Investing Fund Affiliate[26] (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Investing Fund Adviser, Investing Fund Sub-Adviser, employee or Sponsor of the Investing Fund, or a person of which any such officer, director, member of an advisory board, Investing Fund Adviser, Investing Fund Sub-Adviser, employee or Sponsor is an affiliated person (except any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

14. Applicants propose several conditions to address the potential for layering of fees. Applicants note that the board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''independent directors or trustees''), will be required to find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund (or its respective Master Fund) in which the Investing Management Company may invest. Applicants also state that any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[27]

15. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that a Fund (or its respective Master Fund) will be prohibited from acquiring securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes or pursuant to the Master-Feeder Relief.

16. To ensure that an Investing Fund is aware of the terms and conditions of the requested order, the Investing Funds must enter into an agreement with the respective Funds (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgement from the Investing Fund that it may rely on the order only

[25] The requested exemption from section 22(e) would only apply to in-kind redemptions by the Feeder Funds and would not apply to in-kind redemptions by other feeder funds.

[26] An ''Investing Fund Affiliate'' is any Investing Fund Adviser, Investing Fund Sub-Adviser, Sponsor, promoter and principal underwriter of an Investing Fund, and any person controlling, controlled by or under common control with any of these entities. ''Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Fund or any person controlling, controlled by or under common control with any of these entities.

[27] Any reference to NASD Conduct Rule 2830 includes any successor or replacement rule that may be adopted by the Financial Industry Regulatory Authority.

to invest in a Fund and not in any other investment company.

17. Applicants also are seeking the Master-Feeder Relief to permit the Feeder Funds to perform creations and redemptions of Shares in-kind in a master-feeder structure. Applicants assert that this structure is substantially identical to traditional master-feeder structures permitted pursuant to the exception provided in Section 12(d)(1)(E) of the Act. Section 12(d)(1)(E) provides that the percentage limitations of section 12(d)(1)(A) and (B) shall not apply to a security issued by an investment company (in this case, the shares of the applicable Master Fund) if, among other things, that security is the only investment security held by the investing investment company (in this case, the Feeder Fund). Applicants believe the proposed master-feeder structure complies with section 12(d)(1)(E) because each Feeder Fund will hold only investment securities issued by its corresponding Master Fund; however, the Feeder Funds may receive securities other than securities of its corresponding Master Fund if a Feeder Fund accepts an in-kind creation. To the extent that a Feeder Fund may be deemed to be holding both shares of the Master Fund and, for a hypothetical moment in the course of a creation or redemption, other securities, applicants request relief from section 12(d)(1)(A) and (B). The Feeder Funds would operate in compliance with all other provisions of Section 12(d)(1)(E).

Sections 17(a)(1) and (2) of the Act

18. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person (''second tier affiliate''), from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' to include any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person and any person directly or indirectly controlling, controlled by, or under common control with, the other person. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company and provides that a control relationship will be presumed where one person owns more than 25% of another person's voting securities. Each Fund may be deemed to be controlled by an Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser (an ''Affiliated Fund'').

19. Applicants request an exemption under sections 6(c) and 17(b) of the Act from sections 17(a)(1) and 17(a)(2) of the Act to permit in-kind purchases and redemptions of Creation Units by persons that are affiliated persons or second tier affiliates of the Funds solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25% of the outstanding Shares of one or more Funds; (b) having an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25% of the Shares of one or more Affiliated Funds.[28] Applicants also request an exemption in order to permit a Fund to sell its Shares to and redeem its Shares from, and engage in the in-kind transactions that would accompany such sales and redemptions with, certain Investing Funds of which the Funds are affiliated persons or second-tier affiliates.[29]

20. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making in-kind purchases or in-kind redemptions of Shares of a Fund in Creation Units. The Deposit Instruments and Redemption Instruments available for a Fund will be the same for all purchasers and redeemers, respectively, and will correspond pro rata to the Fund's Portfolio Positions, except as described above. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions will be the same for all purchases and redemptions. Deposit Instruments and Redemption Instruments will be valued in the same manner as those Portfolio Positions currently held by the relevant Funds, and the valuation of the Deposit Instruments and Redemption Instruments will be made in the same manner, regardless of the identity of the purchaser or redeemer. Applicants do not believe that in-kind purchases and redemptions will result in abusive self-dealing or overreaching of the Fund.

21. Applicants also submit that the sale of Shares to and redemption of Shares from an Investing Fund meets the standards for relief under sections 17(b) and 6(c) of the Act. Applicants note that any consideration paid for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund in accordance with policies and procedures set forth in the Fund's registration statement.[30] The FOF Participation Agreement will require any Investing Fund that purchases Creation Units directly from a Fund to represent that the purchase of Creation Units from a Fund by an Investing Fund will be accomplished in compliance with the investment restrictions of the Investing Fund and will be consistent with the investment policies set forth in the Investing Fund's registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and appropriate in the public interest.

22. To the extent that a Fund operates in a master-feeder structure, Applicants also request relief permitting the Feeder Funds to engage in in-kind creations and redemptions with the applicable Master Fund. Applicants state that the customary section 17(a)(1) and 17(a)(2) relief would not be sufficient to permit such transactions because the Feeder Funds and the applicable Master Fund could also be affiliated by virtue of having the same investment adviser. However, applicants believe that in-kind creations and redemptions between a Feeder Fund and a Master Fund advised by the same investment adviser do not involve ''overreaching'' by an affiliated person. Such transactions will occur only at the Feeder Fund's proportionate share of the Master Fund's net assets, and the distributed securities will be valued in the same manner as they are valued for the purposes of calculating the applicable Master Fund's NAV. Further, all such transactions will be effected with respect to pre-determined securities and on the same terms with respect to all investors. Finally, such transaction would only occur as a result

[28] Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person, of an Investing Fund because an investment adviser to the Funds is also an investment adviser to an Investing Fund.

[29] Applicants expect most Investing Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between an Investing Fund and a Fund, relief from section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to an Investing Fund and redemptions of those Shares. The requested relief is intended to also cover the in-kind transactions that may accompany such sales and redemptions.

[30] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of an Investing Fund, or an affiliated person of such person, for the purchase by the Investing Fund of Shares of the Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to an Investing Fund, may be prohibited by section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

of, and to effectuate, a creation or redemption transaction between the Feeder Fund and a third-party investor. Applicants believe that the terms of the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned and that the transactions are consistent with the general purposes of the Act.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. As long as a Fund operates in reliance on the requested order, the Shares of the Fund will be listed on a Stock Exchange.

2. No Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that the Shares are not individually redeemable and that owners of the Shares may acquire those Shares from the Fund and tender those Shares for redemption to the Fund in Creation Units only.

3. The Web site for the Funds, which is and will be publicly accessible at no charge, will contain, on a per Share basis, for each Fund the prior Business Day's NAV and the market closing price or Bid/Ask Price, and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

4. On each Business Day, before commencement of trading in Shares on the Stock Exchange, the Fund will disclose on its Web site the identities and quantities of the Portfolio Positions held by the Fund (or its respective Master Fund) that will form the basis for the Fund's calculation of NAV at the end of the Business Day.

5. The Adviser or any Sub-Adviser, directly or indirectly, will not cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any Deposit Instrument for the Fund through a transaction in which the Fund (or its respective Master Fund) could not engage directly.

6. The requested relief, other than the Fund of Funds Relief and the section 17 relief related to a master-feeder structure, will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of actively-managed exchange-traded funds.

B. Fund of Funds Relief

1. The members of the Investing Fund's Advisory Group will not control (individually or in the aggregate) a Fund (or its respective Master Fund) within the meaning of section 2(a)(9) of the Act. The members of the Investing Fund's Sub-Advisory Group will not control (individually or in the aggregate) a Fund (or its respective Master Fund) within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Investing Fund's Advisory Group or the Investing Fund's Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Investing Fund's Sub-Advisory Group with respect to a Fund (or its respective Master Fund) for which the Investing Fund Sub-Adviser or a person controlling, controlled by or under common control with the Investing Fund Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Investing Fund or Investing Fund Affiliate will cause any existing or potential investment by the Investing Fund in a Fund to influence the terms of any services or transactions between the Investing Fund or an Investing Fund Affiliate and the Fund (or its respective Master Fund) or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the independent directors or trustees, will adopt procedures reasonably designed to ensure that the Investing Fund Adviser and any Investing Fund Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or an Investing Fund Affiliate from a Fund (or its respective Master Fund) or a Fund Affiliate in connection with any services or transactions.

4. Once an investment by an Investing Fund in the Shares of a Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, the Board of a Fund (or its respective Master Fund), including a majority of the independent directors or trustees, will determine that any consideration paid by the Fund (or its respective Master Fund) to the Investing Fund or an Investing Fund Affiliate in connection with any services or transactions: (a) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund (or its respective Master Fund); (b) is within the range of consideration that the Fund (or its respective Master Fund) would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (c) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund (or its respective Master Fund) and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Investing Fund Adviser, or Trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Investing Fund in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund (or its respective Master Fund) under rule 12b–1 under the Act) received from a Fund (or its respective Master Fund) by the Investing Fund Adviser, or Trustee or Sponsor, or an affiliated person of the Investing Fund Adviser, or Trustee or Sponsor, other than any advisory fees paid to the Investing Fund Adviser, or Trustee or Sponsor, or its affiliated person by the Fund (or its respective Master Fund), in connection with the investment by the Investing Fund in the Fund. Any Investing Fund Sub-Adviser will waive fees otherwise payable to the Investing Fund Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund (or its respective Master Fund) by the Investing Fund Sub-Adviser, or an affiliated person of the Investing Fund Sub-Adviser, other than any advisory fees paid to the Investing Fund Sub-Adviser or its affiliated person by the Fund (or its respective Master Fund), in connection with the investment by the Investing Management Company in the Fund made at the direction of the Investing Fund Sub-Adviser. In the event that the Investing Fund Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Investing Fund or Investing Fund Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund (or its respective Master Fund)) will cause a Fund (or its respective Master Fund) to purchase a security in an Affiliated Underwriting.

7. The Board of a Fund (or its respective Master Fund), including a majority of the independent directors or trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund (or

its respective Master Fund) in an Affiliated Underwriting, once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Investing Fund in the Fund. The Board will consider, among other things: (a) Whether the purchases were consistent with the investment objectives and policies of the Fund (or its respective Master Fund); (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Fund (or its respective Master Fund) in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund (or its respective Master Fund) will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limits in section 12(d)(1)(A), each Investing Fund and the Trust will execute an FOF Participation Agreement stating, without limitation, that their respective boards of directors or trustees and their investment advisers, or Trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), an Investing Fund will notify the Fund of the investment. At such time, the Investing Fund will also transmit to the Fund a list of the names of each Investing Fund Affiliate and Underwriting Affiliate. The Investing Fund will notify the Fund of any changes to the list as soon as reasonably practicable after a change occurs. The Fund and the Investing Fund will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company, including a majority of the independent directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund (or its respective Master Fund) in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund (or its respective Master Fund) relying on the Fund of Funds Relief will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent (a) the Fund (or its respective Master Fund) acquires securities pursuant to exemptive relief from the Commission permitting the Fund (or its respective Master Fund) to acquire securities of one or more investment companies for short-term cash management purposes or (b) the Fund acquires securities of the Master Fund pursuant to the Master-Feeder Relief.

For the Commission, by the Division of Investment Management, under delegated authority.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–09341 Filed 4–19–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30465; 813–370]

JPMorgan Chase & Co., et al.; Notice of Application

April 16, 2013.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application to amend prior orders under sections 6(b) and 6(e) of the Investment Company Act of 1940 (''Act'') granting an exemption from all provisions of the Act, except section 9, and sections 36 through 53, and the rules and regulations thereunder. With respect to sections 17 and 30 of the Act, and the rules and regulations thereunder, and rule 38a–1 under the Act, the exemption is limited as set forth in the application.

SUMMARY OF APPLICATION: Applicants request an order to amend prior orders exempting certain limited partnerships and other entities formed for the benefit of eligible employees of JPMorgan Chase & Co. and its affiliates from certain provisions of the Act. Each partnership will be an ''employees' securities company'' within the meaning of section 2(a)(13) of the Act.

APPLICANTS: JPMorgan Chase & Co. (the ''Company''); Chase Co-Invest June 2000 Partners, LP, Chase Co-Invest March 2000 Partners, LP, J.P.Morgan Chase Co-Invest Partners 2001 A–2, LP, J.P.Morgan Chase Co-Invest Partners 2001 B–2, L.P., J.P.Morgan Chase Co-Invest Partners 2002, LP, J.P.Morgan Chase Co-Invest Partners 2003, LP, J.P.Morgan Chase Co-Invest Partners 2004, LP, Sixty Wall Street Fund, L.P., 522 Fifth Avenue Fund, L.P., OEP II Co-Investors, L.P., OEP III Co-Investors, L.P., and Hambrecht & Quist Employee Venture Fund, L.P. (collectively, the ''Existing Partnerships''); The BSC Employee Fund, L.P., The BSC Employee Fund II, L.P., The BSC Employee Fund III, L.P., The BSC Employee Fund IV, L.P., The BSC Employee Fund V, L.P., The BSC Employee Fund VI, L.P., The BSC Employee Fund VII, L.P., The BSC Employee Fund VIII (Cayman), L.P., and Bear Stearns Health Innoventures

Employee Fund, L.P. (collectively, the ''Bear Stearns Partnerships'').

FILING DATES: The application was filed on February 8, 2008, and amended on May 29, 2008, October 29, 2008, April 8, 2011, July 24, 2012, and January 18, 2013. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 13, 2013, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants, 270 Park Avenue, New York, NY 10017.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 551–6879, or Dalia Osman Blass, Assistant Director, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Company is a financial holding company and a Delaware corporation. The Company and its ''affiliates,'' as defined in rule 12b–2 under the Securities Exchange Act of 1934 (the ''Exchange Act'') (each an ''Affiliate''), are referred to collectively as ''JPMorgan Chase.'' The Company is a leader in investment banking, financial services for consumers and businesses, financial transaction processing and asset management.

2. The Existing Partnerships are operating in accordance with the terms and conditions of the Prior Orders.[1] The Bear Stearns Partnerships were formed in reliance on an exemptive order issued by the Commission.[2] The Existing Partnerships and the Bear Stearns Partnerships are closed to new investors. Applicants intend to offer additional investment vehicles identical in all material respects to the Existing Partnerships (other than specific investment terms, investment objectives and strategies and form of organization) (the ''Partnerships''). The Existing Partnerships will continue to comply with the terms and conditions of the Prior Orders. Any Partnership formed after the date of the initial filing of the application and Bear Stearns Partnership formed in reliance on the BSC Order will comply with the terms and conditions of the requested order.[3]

3. The Partnerships will be established primarily for the benefit of highly compensated employees of JPMorgan Chase, as part of a program designed to create capital building opportunities that are competitive with those at other financial services firms and to facilitate the recruitment of high caliber professionals. These programs may be structured as different Partnerships, or as separate plans within the same Partnership. Each Partnership will be an ''employees' securities company'' within the meaning of section 2(a)(13) of the Act. Each of the Partnerships will operate as a diversified or non-diversified, closed-end investment company within the meaning of the Act. JPMorgan Chase will control the Partnerships within the meaning of section 2(a)(9) of the Act.

4. Each Partnership will have a general partner or manager that is an Affiliate of the Company (''General Partner''). The General Partner of each Partnership will manage, operate and control that Partnership. The General Partner will be authorized to delegate investment management responsibility to a JPMorgan Chase entity or to a committee of JPMorgan Chase employees, provided that the ultimate responsibility for and control of each Partnership remain with the General Partner. The General Partner will delegate management responsibility only to entities that control, are controlled by, or are under common control with JPMorgan Chase. Any JPMorgan Chase entity that is delegated the responsibility of making investment decisions for the Partnership will be registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act'') if required under applicable law. The General Partner, JPMorgan Chase, or any employees of the General Partner or JPMorgan Chase may be entitled to receive compensation or a performance-based fee (such as a ''carried interest'')[4] based on the gains and losses of the investment program or of the Partnership's investment portfolio. All Partnership investments are referred to herein collectively as ''Portfolio Investments.''

5. Interests in the Partnerships (''Interests'') will be offered without registration in reliance on section 4(2) of the Securities Act of 1933 (the ''Securities Act'') or Regulation D under the Securities Act, and will be sold only (a) to Eligible Employees, (b) at the request of Eligible Employees and the discretion of the General Partner, to Qualified Participants of such Eligible Employees, or (c) to JP Morgan Chase entities, each as defined below. Prior to

[1] The Prior Orders are: *Chase Global Co-Invest Partners 1997, L.P. and The Chase Manhattan Corporation,* Investment Company Act Release Nos. 23202 (May 21, 1998) (notice) and 23261 (June 17, 1998) (order), *Hambrecht & Quist Employee Venture Fund, L.P., et al.,* Investment Company Act Release Nos. 23396 (August 21, 1998) (notice) and 23438 (September 16, 1998) (order), and *Sixty Wall Street Fund, L.P., et al.,* Investment Company Act Release Nos. 23543 (November 20, 1998) (notice) and 23601 (December 16, 1998) (order).

[2] *The BSC Employee Fund, LP. and BSCGP Inc.,* Investment Company Act Release Nos. 22656 (May 7, 1997) (notice) and 22695 (June 3, 1997) (order) (the ''BSC Order''). On March 16, 2008, the Company and The Bear Stearns Companies Inc. (now The Bear Stearns Companies LLC) (''Bear Stearns'') entered into an Agreement and Plan of Merger, as amended (the ''Merger Agreement''). The Merger Agreement provided that, upon the terms and subject to the conditions set forth in the Merger Agreement, a wholly-owned subsidiary of the Company would merge with and into Bear Stearns with Bear Stearns continuing as the surviving corporation and as a wholly-owned subsidiary of the Company (the ''Bear Stearns Transaction''). As a result of the Bear Stearns Transaction, the general partners of the Bear Stearns Partnerships are Affiliates of the Company.

[3] For purposes of this application, (i) a Bear Stearns Partnership will be considered a Partnership, (ii) any Bear Stearns Affiliate(s) acting as general partners(s) to a Bear Stearns Partnership will be considered a General Partner (as defined below), (iii) Eligible Employees (as defined below) of Bear Stearns and its Affiliates and their Qualified Participants (as defined below) will be considered Eligible Employees and Qualified Participants, respectively, and (iv) all references to JPMorgan Chase will be deemed to include Bear Stearns and its Affiliates.

[4] A ''carried interest'' is an allocation to the General Partner, a Participant (as defined below) or the JPMorgan Chase entity acting as the investment adviser to a Partnership based on net gains in addition to the amount allocable to any such entity in proportion to its capital contributions. A General Partner, Participant or JPMorgan Chase entity that is registered as an investment adviser under the Advisers Act may charge a carried interest only if permitted by rule 205–3 under the Advisers Act. Any carried interest paid to a General Partner, Participant or JPMorgan Chase entity that is not registered under the Advisers Act also may be paid only if permitted by rule 205–3 under the Advisers Act as if such entity were registered under the Advisers Act.

offering an Interest to an Eligible Employee, the General Partner must reasonably believe that each Eligible Employee that is required to make an investment decision with respect to whether or not to participate in a Partnership, or to request that a related Qualified Participant be permitted to participate, will be a sophisticated investor capable of understanding and evaluating the risks of participating in the Partnership without the benefit of regulatory safeguards. Participation in a Partnership will be voluntary. The term ''Partners'' refers to all partners or members of, or other investors in the Partnerships, and the term ''Participants'' refers to all partners or members of, or other investors in the Partnerships other than the General Partner.

6. Only those employees of JPMorgan Chase who qualify as ''Eligible Employees'' will be able to participate in the Partnerships. In order to qualify as an ''Eligible Employee,'' (a) an individual must (i) be a current or former employee or current Consultant (as defined below) of JPMorgan Chase and (b) except for certain individuals who manage the day-to-day affairs of the Partnership in question (''Managing Employees'') [5] and a limited number of other employees of JPMorgan Chase [6] (collectively, ''Non-Accredited Investors''), meet the standards of an ''accredited investor'' under in rule 501(a)(5) or 501(a)(6) of Regulation D, or (b) an entity must (i) be a current Consultant of JPMorgan Chase [7] and (ii) meet the standards of an ''accredited investor under rule 501(a) of Regulation D. A Partnership may not have more than 35 Non-Accredited Investors. It is anticipated that, at the sole discretion of the General Partner, Consultants of JPMorgan Chase may be offered the opportunity to participate in the Partnerships.[8]

7. In the discretion of the General Partner and at the request of an Eligible Employee, Interests may be assigned by such Eligible Employee, or sold directly by the Partnership, to a Qualified Participant of an Eligible Employee. In order to qualify as a ''Qualified Participants'' an individual or entity must (a) be an Eligible Family Member or Qualified Investment Vehicle (in each case as defined below), respectively, of an Eligible Employee, and (b) if purchasing an Interest from a Partnership, come within one of the categories of an ''accredited Investor'' under rule 501(a) of Regulation D. An ''Eligible Family Member'' is a spouse, parent, child, spouse of child, brother, sister or grandchild of an Eligible Employee, including step and adoptive relationships. A ''Qualified Investment Vehicle'' is (a) a trust of which the trustee, grantor and/or beneficiary is an Eligible Employee, (b) a partnership, corporation or other entity controlled by an Eligible Employee, or (c) a trust or other entity established solely for the benefit of an Eligible Employee or Eligible Family Members of an Eligible Employee.[9]

8. The terms of a Partnership will be fully disclosed to each Eligible Employee, and, if applicable, to a Qualified Participant, at the time they are invited to participate in the Partnership. Each Eligible Employee and their Qualified Participants will be furnished with offering materials, including a copy of the partnership agreement or other organizational document (the ''Partnership Agreement'') for the relevant Partnership. Each Partnership will send its Partners annual financial statements within 120 days after the end of the fiscal year of such Partnership, or as soon as practicable thereafter. The annual financial statements of each Partnership will be audited by independent certified public accountants,[10] except under certain circumstances in the case of Partnerships formed to make a single Portfolio Investment.[11] As soon as practicable after the end of each tax year of a Partnership, a report will be transmitted to each Partner showing such Partner's share of income, gains, losses, credits, deductions, and other tax items for U.S. federal income tax purposes, resulting from the Partnership's operations during that year.

9. Interests in each Partnership will be non-transferable except with the prior written consent of the General Partner, and, in any event, no person or entity will be admitted into a Partnership as a Participant unless such person is (a) an Eligible Employee, (b) a Qualified Participant of an Eligible Employee, or (c) a JPMorgan Chase entity. The Interests in the Partnerships will be sold without a sales load.

10. An Eligible Employee's interest in a Partnership may be subject to repurchase or cancellation if: (a) The Eligible Employee's relationship with JPMorgan Chase is terminated for cause; (b) a former Eligible Employee becomes employed by, or a partner in, consultant to or otherwise joins any firm that the General Partner determines, in its reasonable discretion, to be competitive with any business of JPMorgan Chase; or (c) the Eligible Employee voluntarily resigns his or her employment with JPMorgan Chase or otherwise has his or her employment terminated for any other reason. Upon repurchase or cancellation, the General Partner will pay to the Eligible Employee at least the lesser of (a) the amount actually paid by the Eligible Employee to acquire the Interest (less prior distributions, plus interest), and (b) the fair market value of the Interest as determined at the time of repurchase or cancellation by the

[5] A Managing Employee may invest in a Partnership if he or she meets the definition of ''knowledgeable employee'' in rule 3c–5(a)(4) under the Act with the Partnership treated as though it were a ''Covered Company'' for purposes of the rule.

[6] Such employees must meet the sophistication requirements set forth in rule 506(b)(2)(ii) of Regulation D under the Securities Act and may be permitted to invest his or her own funds in the Partnership if, at the time of the employee's investment in a Partnership, he or she (a) has a graduate degree in business, law or accounting, (b) has a minimum of five years of consulting, investment banking or similar business experience, and (c) has had reportable income from all sources of at least $100,000 in each of the two most recent years and a reasonable expectation of income from all sources of at least $140,000 in each year in which such person will be committed to make investments in a Partnership. In addition, such an employee will not be permitted to invest in any year more than 10% of his or her income from all sources for the immediately preceding year in the aggregate in such Partnership and in all other Partnerships in which he or she has previously invested.

[7] A ''Consultant'' is a person or entity whom JPMorgan Chase has engaged on retainer to provide services and professional expertise on an ongoing basis as a regular consultant or as a business or legal advisor to JPMorgan Chase and who shares a community of interest with JPMorgan Chase and JPMorgan Chase employees.

[8] In order to participate in the Partnerships, Consultants will be required to be sophisticated investors who qualify as ''accredited investors'' under rule 501(a)(5) or 501(a)(6) of Regulation D (if a Consultant is an individual) or, if not an individual, meet the standards of an ''accredited investor'' under rule 501(a) of Regulation D. Qualified Participants (as defined below) of Consultants may invest in a Partnership.

[9] The inclusion of partnerships, corporations, or other entities that are controlled by Eligible Employees who are individuals in the definition of ''Qualified Investment Vehicle'' is intended to enable these individuals to make investments in the Partnerships through personal investment vehicles over which they exercise investment discretion or other investment vehicles the management or affairs of which they otherwise control. In the case of a partnership, corporation, or other entity controlled by a Consultant, individual participants will be limited to senior level employees, members, or partners of the Consultant who are responsible for the activities of the Consultant, will be required to qualify as ''accredited investors'' under rule 501(a)(5) or 501(a)(6) of Regulation D and will have access to the directors and officers of the General Partner.

[10] ''Audit'' will have the meaning defined in rule 1–02(d) of Regulation S–X.

[11] In such cases, audited financial statements will be prepared for either the Partnership or the entity that is the subject of the Portfolio Investment. Where a Partnership is formed to make a single investment, that investment will not be an entity relying on section 3(c)(7) of the Act.

General Partner. The terms of any repurchase or cancellation will apply equally to any Qualified Participant of an Eligible Employee.

11. It is possible that an investment program may be structured in which a Partnership will co-invest in a portfolio company (or a pooled investment vehicle) with JPMorgan Chase or an investment fund or separate account, organized primarily for the benefit of investors who are not affiliated with JPMorgan Chase, over which a JPMorgan Chase entity exercises investment discretion or which is sponsored by a JPMorgan Chase entity (a ''JPMorgan Chase Third Party Fund''). It is also possible that an investment program may be structured in which a Partnership will invest in an investment fund or pooled investment vehicle for which entities or persons unaffiliated with JPMorgan Chase are the sponsors or investment advisers (a ''Third Party Sponsored Fund''). Any JPMorgan Chase entity's (other than a JPMorgan Chase Third Party Fund's) co-investment in a Third Party Sponsored Fund will be subject to the restrictions contained in condition 3 below. The General Partner will not delegate management and investment discretion for the Partnership to the sponsor of the Third Party Sponsored Fund.

12. If a General Partner elects to recommend that a Partnership enter into any side-by-side investment with an unaffiliated entity (including a Third Party Sponsored Fund), the General Partner will be permitted to engage as a sub-investment adviser the unaffiliated entity (an ''Unaffiliated Subadviser''), which will be responsible for the management of such side-by-side investment. If an Unaffiliated Subadviser is entitled to receive a carried interest, it may also act as an additional General Partner of a Partnership solely in order to address certain tax issues relating to such carried interest. In all such instances, however, a JPMorgan Chase entity will also be a General Partner of the Partnership and will have exclusive responsibility for making the determinations required to be made by the General Partner under the requested order. No Unaffiliated Subadviser will beneficially own any outstanding securities of any Partnership.

13. Subject to the terms of the applicable Partnership Agreement, a Partnership will be permitted to enter into transactions involving (a) a JPMorgan Chase entity, (b) a portfolio company, (c) any Participant or person or entity affiliated with a Participant, (d) a JPMorgan Chase Third Party Fund, or (e) any person or entity who is not affiliated with JPMorgan Chase and is a partner or other investor in a JPMorgan Chase Third Party Fund or a Third Party Sponsored Fund (a ''Third Party Investor'').

14. If the General Partner or a JPMorgan Chase entity makes a loan to a Partnership, the loan would bear interest at a rate no less favorable than the rate obtainable in an arm's length transaction. Any indebtedness of a Partnership will be without recourse to the Participants. A Partnership will not borrow from any person if the borrowing would cause any person not named in section 2(a)(13) of the Act to own securities of the Partnership (other than short term paper).

15. A Partnership will not acquire any security issued by a registered investment company if, immediately after such acquisition, the Partnership will own more than 3% of the outstanding voting stock of the registered investment company.

Applicants' Legal Analysis

1. Section 6(b) of the Act provides, in part, that the Commission will exempt employees' securities companies from the provisions of the Act to the extent that the exemption is consistent with the protection of investors. Section 6(b) provides that the Commission will consider, in determining the provisions of the Act from which the company should be exempt, the company's form of organization and capital structure, the persons owning and controlling its securities, the price of the company's securities and the amount of any sales load, how the company's funds are invested, and the relationship between the company and the issuers of the securities in which it invests. Section 2(a)(13) defines an employees' securities company, in relevant part, as any investment company all of whose securities (other than short-term paper) are beneficially owned (a) by current or former employees, or persons on retainer, of one or more affiliated employers, (b) by immediate family members of such persons, or (c) by such employer or employers together with any of the persons in (a) or (b).

2. Section 7 of the Act generally prohibits investment companies that are not registered under section 8 of the Act from selling or redeeming their securities. Section 6(e) of the Act provides that, in connection with any order exempting an investment company from any provision of section 7, certain provisions of the Act, as specified by the Commission, will be applicable to the company and other persons dealing with the company as though the company were registered under the Act. Applicants request an order under sections 6(b) and 6(e) of the Act exempting the Partnerships from all the provisions of the Act, except section 9, and sections 36 through 53, and the rules and regulations under the Act. With respect to sections 17 and 30 of the Act, and the rules and regulations thereunder, and rule 38a-1 under the Act, the exemption is limited as set forth in the application.

3. Section 17(a) generally prohibits any affiliated person of a registered investment company, or any affiliated person of an affiliated person, acting as principal, from knowingly selling or purchasing any security or other property to or from the company. Applicants request an exemption from section 17(a) of the Act to permit a JPMorgan Chase entity or a Third Party Fund (or any ''affiliated person,'' as defined in the Act, of any such entity or Third Party Fund), acting as principal, to purchase or sell securities or other property to or from any Partnership or any company controlled by such Partnership. Applicants state that the relief is requested to permit each Partnership the flexibility to deal with its Portfolio Investments in the manner the General Partner deems most advantageous to all Participants, including borrowing funds from a JPMorgan Chase entity, restructuring its investments, having its investments redeemed, tendering such Partnership's securities or negotiating options or implementing exit strategies with respect to its investments. Applicants state the requested exemption is sought to ensure that a JPMorgan Chase Third Party Fund or a Third Party Investor will not directly or indirectly become subject to a burden, restriction, or other adverse effect by virtue of a Partnership's participation in an investment opportunity.

4. Applicants believe an exemption from section 17(a) is consistent with the policy of each Partnership and the protection of investors and necessary to promote the basic purpose of such Partnership. Applicants state that the Participants in each Partnership will be fully informed of the possible extent of such Partnership's dealings with JPMorgan Chase, and, as successful professionals employed in investment and financial planning, will be able to understand and evaluate the attendant risks. Applicants assert that the community of interest among the Participants in each Partnership, on the one hand, and JPMorgan Chase, on the other hand, is the best insurance against any risk of abuse. Applicants, on behalf of the Partnerships, acknowledge that any transactions otherwise subject to

section 17(a) of the Act, for which exemptive relief has not been requested, would require approval of the Commission. Applicants further acknowledge that the requested relief will not extend to any transactions between a Partnership and an Unaffiliated Subadviser or an affiliated person of the Unaffiliated Subadviser, or between a Partnership and any person who is not an employee, officer or director of JPMorgan Chase or is an entity outside of JPMorgan Chase and is an affiliated person of the Partnership as defined in Section 2(a)(3)(E) of the Act (''Advisory Person'') or any affiliated person of such person.

5. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, from participating in any joint arrangement with the company unless authorized by the Commission. Applicants request relief to permit affiliated persons of each Partnership, or affiliated persons of any of these persons, to participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement or profit-sharing plan in which a Partnership or a company controlled by the Partnership is a participant. The exemption requested would permit, among other things, co-investments by each Partnership and by individual members or employees, officers, directors, or Consultants of JPMorgan Chase making their own individual investment decisions apart from JPMorgan Chase. Applicants acknowledge that the requested relief will not extend to any transaction in which an Unaffiliated Subadviser or an Advisory Person or an affiliated person of either has an interest.

6. Applicants assert that compliance with section 17(d) would cause a Partnership to forego investment opportunities simply because a Participant in such Partnership or other affiliated person of such Partnership (or any affiliate of such a person) also had, or contemplated making, a similar investment. Applicants further assert that attractive investment opportunities of the types considered by a Partnership often require each participant in the transaction to make available funds in an amount that may be substantially greater than those that may be available to such Partnership alone. Applicants contend that, as a result, the only way in which a Partnership may be able to participate in such opportunities may be to co-invest with other persons, including its affiliates. Applicants assert that the flexibility to structure co-investments and joint investments will not involve abuses of the type section 17(d) and rule 17d–1 were designed to prevent.

7. Applicants state that side-by-side investments held by a JPMorgan Chase Third Party Fund, or by a JPMorgan Chase entity in a transaction in which the JPMorgan Chase investment was made pursuant to a contractual obligation to a JPMorgan Chase Third Party Fund, will not be subject to condition 3 below. All other side-by-side investments held by JPMorgan Chase entities will be subject to condition 3 below. Applicants assert that in structuring a JPMorgan Chase Third Party Fund, it is common for the unaffiliated investors of such fund to require that JPMorgan Chase invest its own capital in Third Party Fund investments, either through the Third Party Fund or on a side-by-side basis, and that such JPMorgan Chase investments be subject to substantially the same terms as those applicable to the Third Party Fund's investments. Applicants state that it is important that the interests of the JPMorgan Chase Third Party Fund take priority over the interests of the Partnerships, and that the activities of the JPMorgan Chase Third Party Fund not be burdened or otherwise affected by activities of the Partnerships. Applicants also state that the relationship of a Partnership to a JPMorgan Chase Third Party Fund is fundamentally different from such Partnership's relationship to JPMorgan Chase. Applicants contend that the focus of, and the rationale for, the protections contained in the application are to protect the Partnerships from any overreaching by JPMorgan Chase in the employer/employee context, whereas the same concerns are not present with respect to the Partnerships vis-à-vis the investors of a JPMorgan Chase Third Party Fund.

8. Section 17(e) of the Act and rule 17e–1 under the Act limit the compensation an affiliated person may receive when acting as agent or broker for a registered investment company. Applicants request an exemption from section 17(e) to permit a JPMorgan Chase entity (including the General Partner), acting as an agent or broker, to receive placement fees, advisory fees, or other compensation from a Partnership in connection with the purchase or sale by the Partnership of securities, provided that such placement fees, advisory fees, or other compensation are deemed ''usual and customary.'' Applicants state that for purposes of the application, fees or other compensation that are charged or received by a JPMorgan Chase entity will be deemed ''usual and customary'' only if (a) the Partnership is purchasing or selling securities with other unaffiliated third parties, including JPMorgan Chase Third Party Funds or Third Party Investors who are also similarly purchasing or selling securities, (b) the fees or compensation being charged to the Partnership are also being charged to the unaffiliated third parties, including JPMorgan Chase Third Party Funds or Third Party Investors, and (c) the amount of securities being purchased or sold by the Partnership does not exceed 50% of the total amount of securities being purchased or sold by the Partnership and the unaffiliated third parties, including JPMorgan Chase Third Party Funds or Third Party Investors. Applicants assert that, because JPMorgan Chase does not wish to appear to be favoring the Partnerships, compliance with section 17(e) would prevent a Partnership from participating in transactions where the Partnership is being charged lower fees than unaffiliated third parties. Applicants assert that the fees or other compensation paid by a Partnership to a JPMorgan Chase entity will be the same as those negotiated at arm's length with unaffiliated third parties.

9. Rule 17e–1(b) under the Act requires that a majority of directors who are not ''interested persons'' (as defined in section 2(a)(19) of the Act) take actions and make approvals regarding commissions, fees, or other remuneration. Rule 17e–1(c) under the Act requires each investment company relying on the rule to satisfy the fund governance standards defined in rule 0–1(a)(7) under the Act. Applicants request an exemption from rule 17e–1 to the extent necessary to permit each Partnership to comply with the rule without having a majority of the directors of the General Partner who are not interested persons take actions and make approvals as set forth in paragraph (b) of the rule, and without having to satisfy the standards set forth in paragraph (c) of the rule. Applicants state that because all the directors of the General Partner will be affiliated persons, without the relief requested, a Partnership could not comply with rule 17e–1. Applicants state that each Partnership will comply with rule 17e–1 by having a majority of the directors of the General Partner take actions and make approvals as set forth in the rule. Applicants state that each Partnership will otherwise comply with rule 17e–1.

10. Section 17(f) of the Act designates the entities that may act as investment company custodians, and rule 17f–1 under the Act imposes certain requirements when the custodian is a

member of a national securities exchange. Applicants request an exemption from section 17(f) and rule 17f–1 to permit a JPMorgan Chase entity to act as custodian without a written contract. Applicants also request an exemption from the rule 17f–1(b)(4) requirement that an independent accountant periodically verify the assets held by the custodian. Applicants state that, given the community of interest of all the parties involved and the existing requirement for an independent audit, compliance with the rule's requirement would be unnecessary. Each Partnership will otherwise comply with the provisions of rule 17f–1.

11. Rule 17f–2 under the Act specifies requirements that must be satisfied for a registered management investment company to act as custodian of its own investments. Applicants request an exemption from rule 17f–2 to permit the following exceptions from the requirements of rule 17f–2: (a) A Partnership's investments may be kept in the locked files of the General Partner (or a JPMorgan Chase entity) for purposes of paragraph (b) of the rule; (b) for purposes of paragraph (d) of the rule, (i) employees of the General Partner (or a JPMorgan Chase entity) will be deemed to be employees of the Partnerships, (ii) officers or managers of the General Partner of a Partnership (or a JPMorgan Chase entity) will be deemed to be officers of the Partnership, and (iii) the General Partner of a Partnership (or a JPMorgan Chase entity) or its board of directors will be deemed to be the board of directors of the Partnership; and (c) in place of the verification procedure under paragraph (f) of the rule, verification will be effected quarterly by two employees of the General Partner (or a JPMorgan Chase entity) each of whom shall have sufficient knowledge, sophistication and experience in business matters to perform such examination. Applicants expect that some of the Partnerships' investments may be evidenced only by partnership agreements, participation agreements or similar documents, rather than by negotiable certificates that could be misappropriated. Applicants assert that these instruments are most suitably kept in the files of the General Partner (or a JPMorgan Chase entity), where they can be referred to as necessary. Applicants will comply with all other provisions of rule 17f–2.

12. Section 17(g) of the Act and rule 17g–1 under the Act generally require the bonding of officers and employees of a registered investment company who have access to its securities or funds. Rule 17g–1 requires that a majority of directors who are not interested persons take certain actions and give certain approvals relating to fidelity bonding. The rule also requires that the board of directors of an investment company relying on the rule satisfy the fund governance standards, as defined in rule 0–1(a)(7). Applicants request relief to permit the General Partner, who may be deemed to be an interested person, to take actions and make approvals as set forth in the rule. Applicants state that, because the General Partner will be an interested person of the Partnerships, the Partnerships could not comply with rule 17g–1 without the requested relief. Applicants also request an exemption from the requirements of rule 17g–l(g) and (h) relating to the filing of copies of fidelity bonds and related information with the Commission and the provision of notices to the board of directors and an exemption from the requirements of rule 17g–1(j)(3) relating to compliance with the fund governance standards. The Partnerships will comply with all other requirements of rule 17g–1.

13. Section 17(j) of the Act and paragraph (b) of rule 17j–1 under the Act make it unlawful for certain enumerated persons to engage in fraudulent or deceptive practices in connection with the purchase or sale of a security held or to be acquired by a registered investment company. Rule 17j–1 also requires that every registered investment company adopt a written code of ethics and that every access person of a registered investment company report personal securities transactions. Applicants request an exemption from the provisions of rule 17j–1, except for the anti-fraud provisions of paragraph (b), because they are burdensome and unnecessary as applied to the Partnerships. The relief requested will extend only to entities within JPMorgan Chase and is not requested with respect to any Unaffiliated Subadviser or Advisory Person.

14. Applicants request an exemption from the requirements in sections 30(a), 30(b), and 30(e) of the Act, and the rules under those sections, that registered investment companies prepare and file with the Commission and mail to their shareholders certain periodic reports and financial statements. Applicants contend that the forms prescribed by the Commission for periodic reports have little relevance to a Partnership and would entail administrative and legal costs that outweigh any benefit to the Participants in such Partnership. Applicants request relief to the extent necessary to permit each Partnership to report annually to its Participants. Applicants also request relief from the requirements of section 30(h), to the extent necessary to exempt the General Partner of each Partnership, directors and officers of the General Partner and any other persons who may be deemed members of an advisory board or investment adviser (and affiliated persons thereof) of such Partnership from filing Forms 3, 4 and 5 under Section 16 of the Exchange Act with respect to their ownership of Interests in such Partnership. Applicants believe that, because there will be no trading market and the transfers of Interests will be severely restricted, these filings are unnecessary for the protection of investors and burdensome to those required to make them.

15. Rule 38a–1 requires investment companies to adopt, implement and periodically review written policies reasonably designed to prevent violation of the federal securities laws and to appoint a chief compliance officer. Applicants state that each Partnership will comply with rule 38a–1(a), (c) and (d), except that (a) since the Partnership does not have a board of directors, the board of directors (or similar body) of the General Partner will fulfill the responsibilities assigned to the Partnership's board of directors under the rule, (b) since the board of directors of the General Partner does not have any disinterested members, approval by a majority of the disinterested board members required by rule 38a–1 will not be obtained, and (c) since the board of directors of the General Partner does not have any disinterested directors, the Partnerships will comply with the requirement in rule 38a–1(a)(4)(iv) that the chief compliance officer meet with the independent directors by having the chief compliance officer meet with the board of directors of the General Partner as constituted.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Each proposed transaction otherwise prohibited by section 17(a) or section 17(d) and rule 17d–1 to which a Partnership is a party (the ''Section 17 Transactions'') will be effected only if the General Partner determines that:

(a) The terms of the Section 17 Transaction, including the consideration to be paid or received, are fair and reasonable to the Participants of the participating Partnership and do not involve overreaching of such Partnership or its Participants on the part of any person concerned, and

(b) the Section 17 Transaction is consistent with the interests of the Participants of the participating Partnership, such Partnership's

organizational documents and such Partnership's reports to its Participants.

In addition, the General Partner will record and will preserve a description of all Section 17 Transactions, the General Partner's findings and the information or materials upon which the General Partner's findings are based and the basis for the findings. All such records will be maintained for the life of the Partnership and at least six years thereafter, and will be subject to examination by the Commission and its staff. Each Partnership will preserve the accounts, books and other documents required to be maintained in an easily accessible place for the first two years.

2. The General Partner will adopt, and periodically review and update, procedures designed to ensure that reasonable inquiry is made, prior to the consummation of any Section 17 Transaction, with respect to the possible involvement in the transaction of any affiliated person or promoter of or principal underwriter for such Partnership, or any affiliated person of such a person, promoter or principal underwriter.

3. The General Partner will not make on behalf of a Partnership any investment in which a Co-Investor (as defined below) has acquired or proposes to acquire the same class of securities of the same issuer, where the investment involves a joint enterprise or other joint arrangement within the meaning of rule 17d–1 in which such Partnership and the Co-Investor are participants, unless any such Co-Investor, prior to disposing of all or part of its investment, (a) gives such General Partner sufficient, but not less than one day's, notice of its intent to dispose of its investment, and (b) refrains from disposing of its investment unless the participating Partnership holding such investment has the opportunity to dispose of its investment prior to or concurrently with, on the same terms as, and on a pro rata basis with, the Co-Investor. The term ''Co-Investor'' with respect to any Partnership means any person who is: (a) An ''affiliated person'' (as defined in section 2(a)(3) of the Act) of such Partnership (other than a JPMorgan Chase Third Party Fund); (b) a JPMorgan Chase entity; (c) an officer, director or partner of a JPMorgan Chase entity; or (d) an entity (other than a JPMorgan Chase Third Party Fund) in which the General Partner acts as a general partner or has a similar capacity to control the sale or other disposition of the entity's securities. The restrictions contained in this condition, however, shall not be deemed to limit or prevent the disposition of an investment by a Co-Investor: (a) To its direct or indirect wholly-owned subsidiary, to any company (a ''Parent'') of which such Co-Investor is a direct or indirect wholly-owned subsidiary, or to a direct or indirect wholly-owned subsidiary of its Parent; (b) to immediate family members of such Co-Investor, including step and adoptive relationships, or to a trust or other investment vehicle established for any such immediate family member; or (c) when the investment is comprised of securities that are (i) listed on any exchange registered as a national securities exchange under section 6 of the 1934 Act; (ii) NMS stocks pursuant to section 11A(a)(2) of the 1934 Act and rule 600(b) of Regulation NMS thereunder; (iii) government securities as defined in section 2(a)(16) of the Act or other securities that meet the definition of ''Eligible Security'' in rule 2a–7 under the Act; or (iv) listed on or traded on any foreign securities exchange or board of trade that satisfies regulatory requirements under the law of the jurisdiction in which such foreign securities exchange or board of trade is organized similar to those that apply to a national securities exchange or a national market system for securities.

4. Each Partnership and its General Partner will maintain and preserve, for the life of such Partnership and at least six years thereafter, such accounts, books, and other documents as constitute the record forming the basis for the audited financial statements that are to be provided to the Participants in such Partnership, and each annual report of such Partnership required to be sent to such Participants, and agree that all such records will be subject to examination by the Commission and its staff. Each Partnership will preserve the accounts, books and other documents required to be maintained in an easily accessible place for the first two years.

5. The General Partner of each Partnership will send to each Participant in that Partnership, at any time during the fiscal year then ended, Partnership financial statements audited by such Partnership's independent accountants, except in the case of a Partnership formed to make a single Portfolio Investment. In such cases, the partnership may send unaudited financial statements, but each Participant will receive financial statements of the single Portfolio Investment audited by such entity's independent accountants. At the end of each fiscal year, the General Partner will make a valuation or have a valuation made of all of the assets of the Partnership as of such fiscal year end in a manner consistent with customary practice with respect to the valuation of assets of the kind held by the Partnership. In addition, within 120 days after the end of each fiscal year of each Partnership or as soon as practicable thereafter, the General Partner will send a report to each person who was a Participant at any time during the fiscal year then ended, setting forth such tax information as shall be necessary for the preparation by the Participant of his, her or its U.S. federal and state income tax returns and a report of the investment activities of the Partnership during that fiscal year.

6. If a Partnership makes purchases or sales from or to an entity affiliated with the Partnership by reason of an officer, director or employee of JPMorgan Chase (a) serving as an officer, director, general partner or investment adviser of the entity, or (b) having a 5% or more investment in the entity, such individual will not participate in the Partnership's determination of whether or not to effect the purchase or sale.

For the Commission, by the Division of Investment Management, under delegated authority.

Elizabeth M. Murphy,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69381; File No. SR–MIAX–2013–16]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the MIAX Fee Schedule

April 16, 2013.

Pursuant to the provisions of 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 April 5, 2013, Miami International Securities Exchange LLC (''MIAX'' or ''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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing a proposal to modify the MIAX Fee Schedule (''Fee Schedule'') to establish fees for option contracts overlying 10 shares of a security (''Mini Options''). The Exchange proposes to implement these fee changes to coincide with the Exchange's listing and trading of Mini Options on April 17, 2013.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify the Fee Schedule to establish fees for Mini Options. The Exchange represented in its filing with the Securities and Exchange Commission (''SEC'' or the ''Commission'') to establish Mini Options that, ''the current schedule of Fees will not apply to the trading of mini-options contracts. The Exchange will not commence trading of mini-option contracts until specific fees for mini-options contracts trading have been filed with the Commission.'' [3] As the Exchange intends to begin trading Mini Options on April 17, 2013 it is submitting this filing to describe the transaction fees that will be applicable to the trading of Mini Options.

Mini Options have a smaller exercise and assignment value due to the reduced number of shares they deliver as compared to standard option contracts. 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 Option, the cost to the Exchange to process quotes and orders in Mini Options, perform regulatory surveillance and retain quotes and orders for archival purposes is the same as for a standard contract. This leaves the Exchange in a position of trying to strike the right balance of fees applicable to Mini Options—too low and the costs of processing Mini Options quotes and orders will necessarily cause the Exchange to either raise fees for everyone or only for participants trading Mini Options; too high and participants may be deterred from trading Mini Options, 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 Mini Options 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 market place.

Exchange Transaction Fees

The Exchange proposes establishing Mini Options transaction fees for all Market Makers and other market participants that would be 10% of the fee associated with standard options. The Mini Options transaction fee, as its standard option counterpart, would apply per executed contract to Registered Market Makers, Lead Market Makers, Directed Order-Lead Market Makers, Primary Lead Market Makers, Directed Order-Primary Lead Market Makers, Public Customers that are not Priority Customers, Non-MIAX Market Makers, Non-Member Broker-Dealers, and Firms. Below is a chart providing a comparison of the transaction fees for standard options and to the proposed fees for Mini Options:

Type of MIAX Market Maker	Standard options transaction fee (per executed contract)	Mini options transaction fee (per executed contract)
Registered Market Maker	$0.23	$0.023
Lead Market Maker	0.20	0.020
Directed Order—Lead Market Maker	0.18	0.018
Primary Lead Market Maker	0.18	0.018
Directed Order—Primary Lead Market Maker	0.16	0.016
Priority Customer	0.00	0.000
Public Customer that is Not a Priority Customer	0.25	0.025
Non-MIAX Market Maker	0.45	0.045
Non-Member Broker-Dealer	0.45	0.045
Firm	0.25	0.025

In proposing Mini Options transaction fees that are 10% of the related standard option transaction fee, the Exchange acknowledges and takes into account that Mini Options have a smaller exercise and assignment value due to the reduced number of shares to be delivered as compared to standard option contracts. The Mini Options transaction fee charged to Priority Customers [4] would remain at $0.00

[3] *See* Securities Exchange Act Release No. 69136 (March 14, 2013), 78 FR 17259 (March 20, 2013) (SR–MIAX–2013–06). The Commission notes that the actual language from the Exchange's filing is: ''the current MIAX Fee Schedule will not apply to the trading of mini-option contracts. The Exchange will not commence trading of mini-option contracts until specific fees for mini-option contracts trading have been filed with the Commission.''

[4] The term ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in

Continued

because the transaction fee for standard options, currently set at $0.00, cannot be reduced any lower.

Marketing Fee

Currently, the Exchange assesses a Marketing Fee to all Market Makers for contracts they execute in their assigned classes when the contra-party to the execution is a Priority Customer. The Exchange proposes assessing a Marketing Fee for applicable transactions in Mini Options and setting the fee to be 10% of the associated fee for standard options. As noted above, the Exchange bases this proposal on the smaller exercise and assignment value due to the reduced number of shares to be delivered with Mini Options as compared to standard option contracts. Below is a chart providing a comparison of the Marketing Fees for standard options and to the proposed fees for Mini Options:

Amount of marketing fee assessed	Option classes
$0.70 (per contract)	Transactions in Standard Option Classes that are not in the Penny Pilot Program.
$0.25 (per contract)	Transactions in Standard Option Classes that are in the Penny Pilot Program.
$0.070 (per contract)	Transactions in Mini Options where the corresponding Standard Option is not in the Penny Pilot Program.
$0.025 (per contract)	Transactions in Mini Options where the corresponding Standard Option is in the Penny Pilot Program

Fixed Fee Surcharge

In order to comply with the requirements of the Distributive Linkage Plan,[5] the Exchange uses various means of accessing better priced interest located on other exchanges. Presently, the Exchange charges a Fixed Fee Surcharge of $0.10 per contract plus a pass through of the fees associated with the execution of the routed order on the other exchanges. The $0.10 is designed to recover the Exchange's costs in routing orders to the other exchanges. Those costs include clearance charges imposed by The Options Clearing Corporation (''OCC'') and per contract routing fees charged by the broker dealers who charge the Exchange for the use of their systems to route orders to other exchanges. It is the Exchange's understanding that both the OCC and the broker dealers have kept their charges applicable to Mini Options the same as for standard option contracts, as their cost to process a contract (i.e., routing or clearing) is the same irrespective of the exercise and assignment value of the contract. As such, the Exchange intends to charge the same Fixed Fee Surcharge for Mini Options as it presently does for standard options, as described in Section (1)(c) of the current Fee Schedule. The Exchange notes that participants can avoid the Fixed Fee Surcharge 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 an order type that does not route to other exchanges. Specifically, the Do Not Route (''DNR'') order modifier is one such order that would never route to another exchange. Given this ability to avoid the Fixed Fee Surcharge, coupled with the fixed third-party costs associated with routing, the Exchange believes it is reasonable to charge the same Routing Surcharge for Mini Options that is charged for standard option contracts.

Options Regulatory Fee

Presently the Exchange charges an Options Regulatory Fee (''ORF'') of $0.004 per contract. The ORF is assessed on each MIAX Member for all options transactions executed or cleared by the MIAX Member that are cleared by the 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, $0.004 per contract, since, as noted, the costs to the Exchange to process quotes, orders, trades and the necessary regulatory surveillance programs and procedures in Mini Options are the same as for standard option contracts. As such, the Exchange feels that it is appropriate to charge the ORF at the same rate as the standard option contract.

2. Statutory Basis

MIAX believes that its proposal to amend fee schedule is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(4) of the Act[7] in particular, in that it is an equitable allocation of reasonable fees and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange noted earlier that, while Mini Options have a smaller exercise and assignment value due to the reduced number of shares to be delivered as compared to standard option contracts, and despite the smaller exercise and assignment value of a Mini Option, the cost to the Exchange to process quotes and orders in Mini Options, perform regulatory surveillance and retain quotes and orders for archival purposes is the same as for a standard contract. This leaves the Exchange in a position of trying to strike the right balance of fees applicable to Mini Options—too low and the costs of processing Mini Options quotes and orders will necessarily cause the Exchange to either raise fees for everyone or only for participants trading Mini Options; too high and participants may be deterred from trading Mini Options, 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. Given these realities, the Exchange believes that adopting fees for Mini Options that are in some cases lower than 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 market place.

In the case of most trade related charges, the Exchange has decided to offer lower per contract fees to participants as part of trying to strike the right balance between recovering costs associated with trading Mini Options and encouraging use of the new Mini Option contracts, which are designed to allow investors to reduce risk in high dollar underlying securities.

The Exchange proposal to establish transaction fees applicable to Market Makers and all other participants to be 10% of the fee charged for standard options is reasonable in light of the fact that the Mini Options do have a smaller exercise and assignment value, specifically 1/10th that of a standard

securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Exchange Rule 100.

[5] *See* Exchange Rule 529.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

option contract. The Exchange's proposal is based on the already established classification of Market Makers and other market participants for standard option contracts, which is an effective fee on the Exchange and has not been determined to be inequitable or unfairly discriminatory. Therefore, the Exchange believes the proposed pricing for Mini Options to be equitable and not unfairly discriminatory as it would apply to all members of a given class (i.e., the Mini Options transaction fee for Register Market Makers would apply to all Register Market Makers).

The Exchange believes the proposal to charge Priority Customers $.00 per contract to be reasonable, as Priority Customers have traded for free all options on the Exchange since the inception of the Exchange. The ability to trade for free attracts Priority Customer order flow to the Exchange, which is beneficial to all other participants on the Exchange who generally seek to trade with Priority Customer order flow. The proposed fee of $.00 per contract is the same fee charged to Priority Customer orders in standard option contracts, which is an effective fee on the Exchange and has not been determined to be inequitable or unfairly discriminatory. Therefore, the proposed Priority Customer pricing for Mini Options would be equitable and not unfairly discriminatory.

The Exchange believes its proposal to assess a Marketing Fee to all Market Makers for Mini Options contracts they execute in their assigned classes when the contra-party to the execution is a Priority Customer with such Marketing Fee set at 10% of the related fee charged for standard options to be reasonable in light of the fact that the Minis do have a smaller exercise and assignment value, specifically 1/10th that of a standard contract. The Exchange does not believe its proposal to be unfairly discriminatory because it applies to all applicable Market Makers evenly.

The Exchange proposal to treat Mini Options the same as standard options for purposes of the Fixed Fee Surcharge is reasonable, equitable and not unfairly discriminatory for the following reasons. Presently, the Exchange charges a Routing Surcharge of $0.10 per contract plus a pass through of the fees associated with the execution of the routed order on the other exchanges. The $0.10 is designed to recover the Exchange's costs in routing orders to the other exchanges. Those costs include clearance charges imposed by the OCC and per contract routing fees charged by the broker dealers who charge the Exchange for the use of their systems to route orders to other exchanges. The Exchange understands that both the OCC and the broker dealers have kept their charges applicable to Mini Options the same as for standard option contracts, as their cost to process a contract (i.e., routing or clearing) is the same irrespective of the exercise and assignment value of the contract. As such, the Exchange intends to charge the same Fixed Fee Surcharge for Mini Options as it presently does for standard options, as described in Section (1)(c) of the current Fee Schedule. The Exchange notes that participants can avoid the Fixed Fee Surcharge 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 an order type that does not route to other exchanges. Specifically, the DNR order type is an order that would never route to another exchange. Given this ability to avoid the Fixed Fee Surcharge, coupled with the fixed third party costs associated with routing, the Exchange feels it is reasonable and equitable to charge the same Fixed Fee Surcharge for Mini Options that is charged for standard option contracts. Since the Fixed Fee Surcharge will apply to all participants in Mini Options as it is applied for standard options, and because such surcharge has not previously been found to be unreasonable, inequitable or unfairly discriminatory, the Exchange believes it is the case for Mini Options as well.

The Exchange notes, particularly in the context of the ORF, 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. Such an outcome would arguably be discriminatory towards investors in standard options for the benefit of investors in Minis. As such, the appropriate approach is to treat both Mini Options and standard options the same with respect to the amount of the ORF that is being charged.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed change designed to provide greater specificity and precision within the Fee Schedule with respect to the fees that will be applicable to Mini Options when they begin trading on the Exchange on or about April 17, 2013.

The Exchange believes that adopting fees for Mini Options 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 Mini Options, and will not impose a burden on competition among various market participants on the Exchange, or between the Exchange and other exchanges in the listed options market place, not necessary or appropriate in furtherance of the purposes of the Act. In this regard, as Mini Options are a new product being introduced into the listed options marketplace, the Exchange is unable at this time to absolutely determine the impact that the fees proposed herein will have on trading in Mini Options. That said, however, the Exchange believes that the rates proposed for Mini Options, would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[8] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

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–MIAX–2013–16 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2013–16. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2013–16, and should be submitted on or before May 13, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–09340 Filed 4–19–13; 8:45 am]

BILLING CODE 8011–01–P

[9] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Privacy Act System of Records

AGENCY: Small Business Administration.

ACTION: Notice of new Privacy Act system of records and request for comment.

SUMMARY: The Small Business Administration (SBA) is amending its Privacy Act Systems of Records to add a new System of Records to maintain the protected information collected from applicants and participants in the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Programs.

DATES: Written comments on the system of records must be received on before May 22, 2013. The notice will be effective without further publication at the end of the comment period, unless comments are received which require further amendments.

ADDRESSES: Written comments on this system of records should be directed to Edsel M. Brown, Assistant Administrator, Office of Technology, U.S. Small Business Administration, 409 3rd Street SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Edsel M. Brown, Assistant Director, Office of Technology, at (202) 205–7343.

SUPPLEMENTARY INFORMATION: The Privacy Act (5 U.S.C. 552a) requires federal agencies to publish a notice of systems of records in the **Federal Register** whenever they establish a new system of records or make a significant change to an established system of records. Each notice must identify and describe the system of records the Agency maintains, the reasons why the agency collects the personally identifying information, the routine uses for which the agency will disclose such information outside the agency, and how individuals may exercise their rights under the Privacy Act to determine if, among other things, the system contains information about them. The information about each individual is called a ''record,'' and the system, whether manual or computer-based, is called a ''system of records.'' The Privacy Act applies to any record about an individual that is maintained in a system of records from which individually identifying information is retrieved by a unique identifier associated with each individual, such as a name or Social Security number.

SYSTEM NAME:

TechNet—SBA 38.

SYSTEM LOCATION:

SBA's Office of Technology, Office of Investment and Innovation, Small Business Administration, 409 Third Street SW., Washington, DC 20416.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM INCLUDES:

Persons who submit applications to or receive awards under the SBIR and STTR programs; principal investigators and key individuals working for SBIR and STTR applicants and awardees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, work phone numbers, and email addresses for owners, key individuals and principal investigators; individual owners' social security numbers; fraud related criminal history; history of civil fraud violations related to the SBIR and STTR programs; and the social and economic disadvantaged status of principal investigators.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 638.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES, THESE RECORDS MAY BE USED, DISCLOSED OR REFERRED:

a. To the court or administrative tribunal and other parties in litigation, when a suit or administrative action has been initiated.

b. To a Congressional office from an individual's record, when that office is inquiring on the individual's behalf; the Member's access rights are no greater than the individual's.

c. To SBA employees, volunteers, contractors, interns, grantees, and experts who have been engaged by SBA to assist in the performance of a service related to this system of records and who need access to the records in order to perform this activity. Recipients of these records shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. Sec. 552a.

d. To the Department of Justice (DOJ) when any of the following is a party to litigation or has an interest in such litigation, and the use of such records by DOJ is deemed by SBA to be relevant and necessary to the litigation, provided, however, that in each case,

SBA determines the disclosure of the records to DOJ is a use of the information contained in the records that is compatible with the purpose for which the records were collected: SBA, or any component thereof; any SBA employee in their official capacity; any SBA employee in their individual capacity where DOJ has agreed to represent the employee; or The United States Government, where SBA determines that litigation is likely to affect SBA or any of its components.

e. In a proceeding before a court, or adjudicative body, or a dispute resolution body before which SBA is authorized to appear or before which any of the following is a party to litigation or has an interest in litigation, provided, however, that SBA determines that the use of such records is relevant and necessary to the litigation, and that, in each case, SBA determines that disclosure of the records to a court or other adjudicative body is a use of the information contained in the records that is a compatible purpose for which the records were collected: SBA, or any SBA component; any SBA employee in their official capacity; any SBA employee in their individual capacity where DOJ has agreed to represent the employee; or The United States Government, where SBA determines that litigation is likely to affect SBA or any of its components.

f. To appropriate agencies, entities, and persons when: SBA suspects or has confirmed that the security or confidentiality of information in the system records has been compromised; SBA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identify theft or fraud, or harm to the security of integrity of this system or other systems or programs (whether maintained by the Agency or entity) that rely upon the compromised information; and the disclosure made to such agencies, entities and persons is reasonably necessary to assist in connection with SBA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

g. To Congress, the Government Accountability Office, agencies participating in the SBIR and the STTR programs (Department of Agriculture, Department of Commerce (National Institute of Standards and Technology and National Oceanic and Atmospheric Administration), Department of Defense, Department of Education, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Transportation, Environmental Protection Agency, National Aeronautics and Space Administration, and the National Science Foundation), Office of Management and Budget, Office of Science and Technology Policy, Office of Federal Procurement Policy, and other authorized persons who are subject to a use and nondisclosure agreement with the Federal Government covering the use of the database for the purposes of program evaluation and auditing.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS:

STORAGE:

Paper and electronic files.

RETRIEVAL:

SBA will retrieve records using a unique tracking number assigned by SBA or another participating agency, as well as by company name.

SAFEGUARDS:

The access to the system is restricted to registered users only, which include applicants, current awardees, and past-awardees of the SBIR or STTR programs from any of the 11 SBIR/STTR agencies, and registered Government Agency users. The access to information for the logged-in users is based on the role assigned to them during the registration process. These roles ensure users are only able to access their own records and not the records of other users.

RETENTION AND DISPOSAL:

TechNet is a unique, mission critical system of the SBA. The input data is temporary and have a one year retention period. The data in the system have a permanent retention in accordance with NARA disposition authority approved under Request for Records Disposition Authority—N1–309–03–001.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Administrator for Investment, Office of Investment and Innovation, 409 Third Street SW., Washington DC 20416.

NOTIFICATION PROCEDURE:

Individuals may make record inquiries in person or in writing to the Systems Manager or SBA's Privacy Act Officer.

ACCESS PROCEDURES:

Individuals who must create an account will furnish their Company's name, the authorized user's name, the company's EIN and DUNS numbers and email address of the principal of the firm. These details are to be submitted through a web-based registration form available on sbir.gov public-facing site. The company name, EIN, and name of the principal of the firm will be publicly available for all awardees as required by Congress.

CONTESTING PROCEDURES:

Individuals seeking to contest or amend information maintained in this system of records should notify the SBA Privacy Act Officer, Lisa J. Babcock, 409 Third Street SW., Washington DC 20416, or System Manager listed above, state reason(s) for contesting any information in the record and provide proposed amendment(s).

SOURCE CATEGORIES:

The SBIR/STTR applicants and awardees, including information submitted to the SBIR/STTR participating agencies. In addition, SBIR.gov system interfaces with System for Award Management (SAM) database to complete the authentication process for new small business users' registration.

Dated: April 15, 2013.

Pravina Raghavan,

Acting Associate Administrator for Investment, Director, Office of Investments & Innovation.

[FR Doc. 2013–09335 Filed 4–19–13; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2013–0015]

Privacy Act of 1974; Proposed New Routine Uses and System of Records Alterations

AGENCY: Social Security Administration (SSA).

ACTION: Proposed New Routine Uses and System of Records Alterations.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(4) and (e)(11)), we are issuing public notice of our intent to modify the system of records entitled, *Master Representative Payee File, 60–0222* (hereinafter referred to as the *Representative Payee SOR*). We propose modifying the categories of records, record source categories, and adding two new routine uses to the Representative Payee SOR. We propose adding criminal history information and representative payee annual accounting reports to the categories of records. We propose adding third parties, contractors, other Federal agencies, and SSA's Prisoner Update Processing System of Records, 60–0269 as new record source categories. The first new

routine use will allow us to disclose representative payee (RP) and RP applicant personally identifiable information (PII) to conduct criminal background checks. The second routine use will allow us to disclose RP and RP applicant PII to Federal, State, and local law enforcement agencies and private security contractors to protect the safety of SSA employees and customers or assist in the investigation or prosecution of activities that disrupt the operation of SSA facilities. We discuss the revisions to the categories of records in the system, the record source categories, and the routine uses in detail in the Supplementary Information section below. We invite public comment on this proposal.

DATES: We filed a report of the system of records alterations and new routine uses with the Chairman of the Senate Committee on Homeland Security and Governmental Affairs, the Chairman of the House Committee on Oversight and Government Reform, and the Director, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on April 16, 2013. The routine uses will become effective on May 25, 2013 unless we receive comments before that date that require further consideration.

ADDRESSES: Interested persons may comment on this publication by writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401 or through the Federal e-Rulemaking Portal at *http://www.regulations.gov*. All comments we receive will be available for public inspection at the above address and will be posted to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Anthony Tookes, Government Information Specialist, Privacy Implementation Division, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 966–0097, email: *anthony.tookes@ssa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Purpose of the Proposed Changes to the Categories of Records, Record Source Categories, and New Routine Uses

General Background

The Social Security Administration (SSA) is establishing new data collection procedures to strengthen its RP selection process. An RP is an individual or organization appointed by SSA to receive Social Security or Supplemental Security Income benefits, or both, for someone who cannot manage or direct the management of their money. The RP's primary responsibility is to use the beneficiary's benefits to pay for the beneficiary's current and foreseeable needs.

We maintain information that we collect from RP applicants in the Master Representative Payee File system of records (hereinafter, we refer to it as the RP SOR). The RP SOR describes how we may disclose the RP information contained in the system.

The purpose of the additional data collection is to assist us in identifying RPs and RP applicants with serious criminal convictions and ensure that we adhere to a consistent process in determining their suitability. The Social Security Act prohibits certain groups of persons from serving as representative payees due to their criminal history. For example, the Act prohibits from serving as representative payees persons convicted of Social Security fraud and persons who are fleeing to avoid prosecution, or custody or confinement after conviction, of a felony, or an attempt to commit a felony. In other cases, the Act gives us discretion to determine whether it would be appropriate to appoint someone as a representative payee despite his or her criminal history.

During the initial RP interview, we verify applicants' information against our prisoner and fugitive felon records. We verify allegations of criminal history data against third party sources and maintain the results in the RP SOR. If the applicant has an existing record with us, such as a Master Beneficiary Record (MBR), Supplemental Security Record (SSR), or Prisoner Update Processing System (PUPS) record, we review our records to determine if that information has any bearing on the RP applicant's suitability. We also gather information about the nature of any self-reported criminal convictions; fugitive felony history or periods of incarceration recorded on the PUPS record; the beginning and ending dates of confinement; types of conviction (e.g., felony or misdemeanor); type of crime (e.g., robbery or forgery); and any pending civil or criminal charges. Applicants can provide details about their incarceration or unsatisfied felony warrant. If criminal information is incomplete, applicants must produce documentation that provides this information.

The first new routine use in the RP SOR will permit us to disclose RP and RP applicant PII to third parties, contractors, or other Federal agencies that provide PII verification and other data to support our efforts to conduct criminal background checks.

The second routine use is a general routine use recently added to other SSA systems of records. It will enable us to disclose information to Federal, State, and local law enforcement agencies and private security contractors to enable them to protect our employees and customers. Furthermore, it enables us to assist in prosecutions with respect to activities that affect such safety and security, or activities that disrupt the operation of our facilities.

Additionally, we propose some minor alterations to the system of records to more accurately reflect the information we use and maintain in this system. This includes expanding the categories of records and the record source categories.

II. Proposed New Routine Uses

A. Representative Payee Background Checks

The Privacy Act requires that agencies publish in the **Federal Register** notification of ''each routine use of the records contained in the system, including the categories of users and the purpose of such use.'' 5 U.S.C. 552a(e)(4)(D). This new routine use, numbered 19, for the Representative Payee SOR will allow disclosure of RP and RP applicant PII to third parties, contractors, or other Federal agencies, to conduct criminal background checks. The routine use reads as follows:

> To third parties, contractors, or other Federal agencies, as necessary, to conduct criminal background checks and to obtain criminal history information on representative payees and representative payee applicants.

B. To Federal, State, and Local Law Enforcement To Protect the Safety of SSA Employees and Customers

This new routine use, numbered 20, will allow disclosure of RP and RP applicant PII to law enforcement agencies. The routine use reads as follows:

> To Federal, State, and local law enforcement agencies and private security contractors as appropriate, if necessary:
>
> (a) To enable them to protect the safety of SSA employees and customers, the security of the SSA workplace and the operation of SSA facilities, or
>
> (b) To assist investigations or prosecutions with respect to activities that affect such safety and security, or activities that disrupt the operation of SSA facilities.

III. Compatibility of Routine Uses

We may disclose information when the purpose is compatible with the

purpose for which we collected the information and when re-disclosure is supported by published routine uses (20 CFR 401.150).

Third parties, contractors, and other Federal agencies, as necessary, will use RP PII to conduct background checks. We will use the information derived from the background checks in our suitability evaluation to determine if an RP or RP applicant has committed a serious crime.

Disclosure of PII to Federal, State, and local law enforcement agencies and private security contractors to enable them to protect SSA employees and customers is compatible with our health and safety policies.

For these reasons, we find that the aforementioned routine uses meet the statutory and regulatory compatibility requirements.

IV. Effect of the Routine Use on the Rights of Individuals

We will adhere to the provisions of the Privacy Act and all other applicable Federal statutes that govern our use and disclosure of the information we obtain from third parties when we evaluate the suitability of RP applicants. We will only perform background checks on RP applicants who we advise via the RP application form that we will collect, verify, maintain, and use such information only as provided for by Federal law. Therefore, we do not anticipate that the routine uses will have any unwarranted adverse effect on the privacy or other rights of individuals.

Kirsten J. Moncada,

Executive Director.

Social Security Administration Notice of System of Records Alterations and Proposed New Routine Uses Required by the Privacy Act of 1974

System Number:

60–0222

SYSTEM NAME:

Master Representative Payee File, Social Security Administration (SSA)

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

SSA, National Computer Center, 6201 Security Boulevard, Baltimore, Maryland 21235. The system database is available by direct electronic access by Social Security field offices (FO). FO addresses and telephone numbers can be found in local telephone directories under ''Social Security Administration'' (SSA), or by accessing *http://www.ssa.gov/regions/regional.html.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information about all payees and payee applicants, including persons whose certifications as representative payees have been revoked or terminated on or after January 1, 1991; persons who have been convicted of a violation of sections 208, 811, and 1632 of the Social Security Act, as amended, persons convicted under other statutes in connection with services as a representative payee, and others whose certification as a representative payee SSA has revoked due to misuse of funds paid under Title II and Title XVI of the Social Security Act; persons who are acting or have acted as representative payees; representative payee applicants who were not selected to serve as representative payees; representative payee applicants who have been convicted of an offense resulting in more than one (1) year imprisonment; payees and payee applicants who have an outstanding felony warrant; organizational payees who have been authorized to collect a fee for their service; and beneficiaries/applicants who are being served by representative payees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system consist of:

1. Names and Social Security numbers (SSNs) (or employer identification numbers (EINs)) of representative payees whose certifications for payment of benefits as representative payees have been revoked or terminated on or after January 1, 1991, because of misuse of benefits under Title II or Title XVI of the Social Security Act;
2. Names and SSNs (or EINs) of all persons convicted of violations of sections 208, 811, and 1632 of the Social Security Act, as amended;
3. Names, addresses, and SSNs (or EINs) of persons convicted of violations of statutes other than sections 208 and 1632 of the Social Security Act, when such violations were committed in connection with the individual's service as a Social Security representative payee;
4. Names, addresses, SSNs, and information about representative payee or representative payee applicant self-reported crimes, outstanding felony warrants, or imprisonment for a period exceeding one (1) year (an indicator will be used in the system to identify persons identified as having an outstanding felony warrant);
5. Names, addresses, and SSNs (or EINs) of representative payees who are receiving benefit payments pursuant to section 205(j) or section 1631(a)(2) of the Social Security Act;
6. Names, addresses, and SSNs of persons for whom representative payees are reported to be providing representative payee services under section 205(j) or section 1631(a)(2) of the Social Security Act;
7. Names, addresses, and SSNs of representative payee applicants who were not selected as representative payees;
8. Names, addresses, and SSNs of persons who were terminated as representative payees for reasons other than misuse of benefits paid to them on behalf of beneficiaries/recipients;
9. Information concerning the representative payee's relationship to the beneficiaries/recipients they serve;
10. Names, addresses, EINs, and qualifying information of organizations authorized to charge a fee for providing representative payee services;
11. Codes which indicate the relationship (other than familial) between the beneficiaries/recipients and the persons who have custody of the beneficiaries/recipients;
12. Dates and reasons for payee terminations (e.g., performance not acceptable, death of payee, beneficiary in direct payment, etc.) and revocations;
13. Codes indicating whether representative payee applicants were selected or not selected;
14. Dates and reasons representative payee applicants were not selected to serve as payees, dates and reasons for changes of payees (e.g., beneficiary in direct payment, a criminal history etc.);
15. Amount of benefits misused;
16. Identification number assigned to the claim on which the misuse occurred;
17. Date of the determination of misuse;
18. Information about a felony conviction reported by the representative payee;
19. Criminal history information obtained from SSA databases, third parties, contractors, and other Federal agencies; and,
20. Annual payee accounting reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 205(a), 205(j), 208, 811, 1631(a), and 1632 of the Social Security Act, as amended, and the Social Security Protection Act of 2004 (Pub. L. 108–203).

PURPOSE(S):

Information maintained in this system will assist SSA in the selection process of a representative payee by enabling Social Security field offices to better screen applicants to determine their

suitability to become representative payees. SSA also will use the data for management information and workload projection purposes. Additionally, we will use the information to prepare annual reports to Congress on representative payee activities.

ROUTINE USES OF RECORDS COVERED BY THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made for routine uses as indicated below. However, disclosure of any information defined as ''return or return information'' under 26 U.S.C. 6103 of the Internal Revenue Code will not be disclosed unless authorized by a statute, the Internal Revenue Service (IRS), or IRS regulations.

1. To the Department of Justice (DOJ), a court or other tribunal, or another party before such tribunal, when:

(a) The Social Security Administration (SSA), or any component thereof; or

(b) Any SSA employee in his or her official capacity; or

(c) Any SSA employee in his or her individual capacity where DOJ (or SSA, where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where SSA determines that the litigation is likely to affect SSA or any of its components, is a party to litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, a court or other tribunal, or another party before the tribunal, is relevant and necessary to the litigation, provided, however, that in each case, SSA determines that such disclosure is compatible with the purpose for which the records were collected.

2. To a congressional office, in response to an inquiry from that office made at the request of the subject of the records.

3. To the General Services Administration and the National Archives and Records Administration (NARA) under 44 U.S.C. 2904 and 2906, as amended by the NARA Act of 1984, information that is not restricted from disclosure by Federal law for the use of those agencies in conducting records management studies.

4. To the Department of Veterans Affairs (DVA), Regional Office, Manila, Philippines, for the administration of the Social Security Act in the Philippines and other parts of the Asia-Pacific region through services and facilities of that agency.

5. To the Department of State for administration of the Social Security Act in foreign countries through services and facilities of that agency.

6. To the American Institute, a private corporation under contract to the Department of State, for administering the Social Security Act in Taiwan through facilities and services of that agency.

7. To DOJ for:

(a) Investigating and prosecuting violations of the Social Security Act to which criminal penalties attach,

(b) Representing the Commissioner of Social Security, and,

(c) Investigating issues of fraud or violations of civil rights by officers or employees of the SSA.

8. To the Office of the President, for responding to an inquiry received from the subject of the records or a third party acting on behalf of the subject.

9. To DVA for the shared administration of DVA's and the SSA's representative payee programs.

10. To contractors and other Federal Agencies, as necessary, for the purpose of assisting the SSA in the efficient administration of its programs. We will disclose information under this routine use only in situations in which SSA may enter into a contractual or similar agreement to obtain assistance in accomplishing an SSA function relating to this system of records.

11. To a third party such as a physician, social worker, or community service worker, who has, or is expected to have, information, which is needed to evaluate one or both of the following:

(a) The claimant's capability to manage or direct the management of his or her benefits.

(b) Any case in which disclosure aids investigation of suspected misuse of benefits, abuse or fraud, or is necessary for program integrity, or quality appraisal activities.

12. To a third party, where necessary, information pertaining to the identity of a payee or payee applicant, the fact of the person's application for or service as a payee, and, as necessary, the identity of the beneficiary, to obtain information on employment, sources of income, criminal justice records, stability of residence, and other information relating to the qualifications and suitability of representative payees or representative payee applicants to serve as representative payees, or their use of the benefits paid to them under section 205(j) or section 1631(a) of the Social Security Act.

13. To a claimant or other individual authorized to act on his or her behalf information concerning the status of his or her representative payee or the status of the application of a person applying to be his or her representative payee, and information pertaining to the address of a representative payee applicant or a selected representative payee when this information is needed to pursue a claim for recovery of misapplied or misused benefits.

14. To the Railroad Retirement Board (RRB) for the administration of RRB's representative payment program.

15. To student volunteers, persons working under a personal services contract, and other workers who technically do not have the status of Federal employees, when they are performing work for SSA, as authorized by law, and they need access to personally identifiable information in SSA records in order to perform their assigned agency functions.

16. To the Office of Personnel Management (OPM) for the administration of OPM's representative payee programs.

17. To the Secretary of Health and Human Services or to any State, any record or information requested in writing by the Secretary for the purpose of administering any program administered by the Secretary, if records or information of such type were so disclosed under applicable rules, regulations and procedures in effect before the date of enactment of the Social Security Independence and Program Improvements Act of 1994.

18. To appropriate Federal, State, and local agencies, entities, and persons when:

(a) We suspect or confirm a compromise of security or confidentiality of information;

(b) we determine that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, risk of identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and

(c) we determine that disclosing the information to such agencies, entities, and persons will assist us in our efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

19. To third parties, contractors, or other Federal Agencies, as necessary, to conduct criminal background checks and to obtain criminal history information on representative payees and representative payee applicants.

20. To Federal, State, and local law enforcement agencies and private security contractors as appropriate, if necessary:

(a) To enable them to protect the safety of SSA employees and customers, the security of the SSA workplace and the operation of SSA facilities, or

(b) To assist investigations or prosecutions with respect to activities

that affect such safety and security, or activities that disrupt the operation of SSA facilities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

We maintain records in this system in paper form and system generated forms and in electronic files.

RETRIEVABILITY:

We will retrieve records by both SSN and name. If we deny an application because the applicant submitted fraudulent evidence, or if we are verifying evidence we suspect to be fraudulent, we will retrieve records by the applicant's name plus month and year of birth, or by the applicant's name plus the eleven-digit reference number of the disallowed application.

SAFEGUARDS:

We have established safeguards for automated records in accordance with our Information Systems Security Handbook. These safeguards include maintaining the magnetic tapes and discs within a secured enclosure attended by security guards. Anyone entering or leaving this enclosure must have a special badge we issue only to authorized personnel.

For computerized records, we or our contractors, including organizations administering our programs under contractual agreements, transmit information electronically between Central Office and field office locations. Safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal-oriented transaction matrix, and an audit trail. Only authorized personnel who have a need for the records in the performance of their official duties may access paper files.

We annually provide to all our employees and contractors appropriate security guidance and training that include reminders about the need to protect PII and the criminal penalties that apply to unauthorized access to, or disclosure of, PII. See 5 U.S.C. 552a(i)(1). Furthermore, employees and contractors with access to databases maintaining PII must sign a sanction document annually, acknowledging their accountability for inappropriately accessing or disclosing such information.

RETENTION AND DISPOSAL:

We retain and destroy this information in accordance with the National Archives and Records Administration approved records schedules N1–47–09–04, Master Beneficiary Record, and N1–47–09–5, Supplemental Security Income Record. We retain most paper forms only until we film and verify them for accuracy. We then shred the paper records. We retain electronic and updated microfilm and microfiche records in accordance with the approved records schedules. We update all tape, discs, microfilm, and microfiche files periodically. We erase out-of-date magnetic tapes and discs and we shred out-of-date microfiches.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Commissioner, Office of Income Security Programs, Social Security Administration, Room 252 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235.

NOTIFICATION PROCEDURES:

Persons can determine if this system contains a record about them by writing to the system manager at the above address and providing their name, SSN, or other information that may be in this system of records that will identify them. Persons requesting notification by mail must include a notarized statement to us to verify their identity or must certify in the request that they are the person they claim to be and that they understand that the knowing and willful request for, or acquisition of, a record pertaining to another person under false pretenses is a criminal offense.

Persons requesting notification of records in person must provide their name, SSN, or other information that may be in this system of records that will identify them, as well as provide an identity document, preferably with a photograph, such as a driver's license. Persons lacking identification documents sufficient to establish their identity must certify in writing that they are the person they claim to be and that they understand that the knowing and willful request for, or acquisition of, a record pertaining to another person under false pretenses is a criminal offense. Persons requesting notification by telephone must verify their identity by providing identifying information that parallels the information in the record about which notification is sought. If we determine that the identifying information the person provides by telephone is insufficient, we will require the person to submit a request in writing or in person. If a person requests information by telephone on behalf of another person, the subject person must be on the telephone with the requesting person and with us in the same phone call. We will establish the subject person's identity (his or her name, SSN, address, date of birth, and place of birth, along with one other piece of information such as mother's maiden name), and ask for his or her consent to provide information to the requesting person. These procedures are in accordance with our regulations at 20 CFR 401.40 and 401.45.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Persons must also reasonably specify the record contents they are seeking. These procedures are in accordance with our regulations at 20 CFR 401.40(c).

CONTESTING RECORD PROCEDURES:

Same as Notification procedures. Requester should also reasonably identify the record, specify the information they are contesting and the corrective action sought, and the reasons for the correction, with supporting justification showing how the record is incomplete, untimely, inaccurate, or irrelevant. These procedures are in accordance with our regulations at 20 CFR 401.65(a).

RECORD SOURCE CATEGORIES:

Information in this system is obtained from representative payee applicants and representative payees; third parties, contractors, and other Federal agencies; the SSA Office of Inspector General; and other SSA systems of records such as the Claims Folder System, 60–0089, Master Beneficiary Record, 60–0090, Supplemental Security Income Record and Special Veterans Benefits, 60–0103, Master Files of SSN Holders and SSN Applications, 60–0058, Recovery of Overpayments, Accounting and Reporting, 60–0094, and Prisoner Update Processing System, 60–0269.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

[FR Doc. 2013–09343 Filed 4–19–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2011–0027; Notice No. 6]

Northeast Corridor Safety Committee; Notice of Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Announcement of the Northeast Corridor Safety Committee (NECSC) Meeting.

SUMMARY: FRA announces the fourth meeting of the Northeast Corridor Safety Committee, a Federal Advisory Committee mandated by Section 212 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA). The Committee is made up of stakeholders operating on the Northeast Corridor, and the purpose of the Committee is to provide annual recommendations to the Secretary of Transportation. NECSC meeting topics will include: Status of frequency spectrum recommendation to the Secretary, Northeast Corridor train inspection and testing, and a general discussion of safety issues.

DATES: The meeting of the NECSC is scheduled to commence on Thursday, June 13, 2013, at 9:00 a.m., and will adjourn by 4:30 p.m.

ADDRESSES: The Northeast Corridor Safety Committee meeting will be held at the Hilton DoubleTree Hotel located at 1515 Rhode Island Avenue NW., Washington, DC 20005. The meeting is open to the public on a first-come, first-served basis, and is accessible to individuals with disabilities. Sign and oral interpretation can be made available if requested 10 calendar days before the meeting.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Woolverton, NECSC Administrative Officer/Coordinator, FRA, 1200 New Jersey Avenue SE., Mailstop 25, Washington, DC 20590, (202) 493–6212; or Mr. Michael Logue, Acting Associate Administrator for Railroad Safety/Chief Safety Officer, FRA, 1200 New Jersey Avenue SE., Mailstop 25, Washington, DC 20590, (202) 493–6300.

SUPPLEMENTARY INFORMATION: The NECSC is mandated by a statutory provision in Section 212 of the PRIIA (codified at 49 U.S.C. 24905(f)). The Committee is chartered by the Secretary of Transportation and is an official Federal Advisory Committee established in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. Title 5–Appendix.

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

Michael J. Logue,

Acting Associate Administrator for Railroad Safety/Chief Safety Officer.

[FR Doc. 2013–09331 Filed 4–19–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2013–0020]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: The Federal Transit Administration invites public comment about our intention to request the Office of Management and Budget's (OMB) approval of the following new information collections:

49 U.S.C. Section 5307—Capital Assistance Program and Section 5309—Urbanized Area Formula Program;

49 U.S.C. Section 5310—Capital Assistance Program for Elderly Persons and Persons with Disabilities and Section 5311—Nonurbanized Area Formula.

The information collected is necessary to determine eligibility of applicants and ensure the proper and timely expenditure of federal funds within the scope of each program. The **Federal Register** notice with a 60-day comment period soliciting comments was published on February 6, 2013 (Citation 78 FR 8690). No comments were received from that notice.

DATES: Comments must be submitted before May 22, 2013. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: LaStar Matthews, Office of Administration, Office of Management Planning, (202) 366–2295.

SUPPLEMENTARY INFORMATION:

Title: 49 U.S.C. Section—5307 Capital Assistance Program and Section 5309—Urbanized Area Formula Program;

(*OMB Number: 2132–0502*).

Abstract: 49 U.S.C. Section 5307—Capital Assistance Program and Section 5309—Urbanized Area Formula Program authorize the Secretary of Transportation to make grants to State and local governments and public transportation authorities for financing mass transportation projects. In response to requirements authorized by the new legislation, Moving Ahead for Progress in the 21st Century (MAP–21), a Passenger Ferry Grant Program has been added under 49 U.S.C. 5307. The Passenger Ferry Grant Program is a new discretionary grant program that will award funding on a competitive selection basis. Grant recipients for 49 U.S.C. Sections 5307 and 5309 are required to make information available to the public and publish a program of projects for affected citizens to comment on the proposed program and performance of the grant recipients at public hearings. Notices of hearings must include a brief description of the proposed project and be published in a newspaper circulated in the affected area. FTA also uses the information to determine eligibility for funding and to monitor the progress of the grantee in implementing and completing project activities. The information submitted ensures FTA's compliance with applicable federal laws, OMB Circular A–102 and 49 CFR part 18, ''Uniform Administrative Requirements for Grants and C9ooperative Agreements with State and Local Governments.''

Respondents: State and local government, business or other for-profit institutions and non-profit institutions.

Estimated Annual Burden on Respondents: Approximately 50 hours for each of the 3,345 respondents.

Estimated Total Annual Burden: 167,250 hours.

Frequency: Annual.

Title: 49 U.S.C. Section 5310—Capital Assistance Program for Elderly Persons and Persons with Disabilities and Section 5311—Nonurbanized Area Formula Program; (OMB Number 2132–0500).

Abstract: 49 U.S.C. Section 5310—Capital Assistance Program for Elderly Persons and Persons with Disabilities provides financial assistance for the specialized transportation service needs of elderly persons and persons with disabilities in all areas, urbanized, small urban and rural. 49 U.S.C. 5311—Nonurbanized Area Formula Program provides financial assistance for the provision of public transportation services in nonurbanized areas. Both programs are administered by the State. The Tribal Transit Program, which was approved as a separate program under the American Recovery and Reinvestment Act (ARRA), is now being added under 49 U.S.C. 5311. Under the new legislation, Moving Ahead for Progress in the 21st Century (MAP–21), the Tribal Transit Program continues to be a set-aside from the rural area formula program (Section 5311), but now consists of a $25 million formula program and a $5 million discretionary grant program. This program no longer provides a single apportionment to the State. It now provides apportionments specifically for large urbanized, small urbanized and rural areas and will require new designations in large urbanized areas. MAP–21 also expands the eligibility provisions to include operating expenses.

49 U.S.C. 5310 and 5311 authorize FTA to review applications for federal financial assistance to determine eligibility and compliance with statutory and administrative requirements. The applications must contain sufficient information to enable FTA to make the findings required by law to enforce the requirements of the programs. Information collected during the project management stage provides a basis for monitoring approved projects to ensure timely and appropriate expenditure of federal funds by grant recipients.

Respondents: State and local government, business or other for-profit institutions and non-profit institutions and small business organizations.

Estimated Annual Burden on Respondents: Approximately 111 hours for each of the 178 respondents.

Estimated Total Annual Burden: 20,775 hours.

Frequency: Annual.

Issued: April 15, 2013.

Matthew M. Crouch,

Deputy Administrator for Administration.

[FR Doc. 2013–09332 Filed 4–19–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Limitation on Claims Against Proposed Public Transportation Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for projects in the following locations: Village of Thomaston, Nassau County, NY; Detroit, MI; and Los Angeles, CA. The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject projects and to activate the limitation on any claims that may challenge these final environmental actions.

DATES: By this notice, FTA is advising the public of final agency actions subject to Section 139(l) of Title 23, United States Code (U.S.C.). A claim seeking judicial review of the FTA actions announced herein for the listed public transportation project will be barred unless the claim is filed on or before September 19, 2013.

FOR FURTHER INFORMATION CONTACT: Nancy-Ellen Zusman, Assistant Chief Counsel, Office of Chief Counsel, (312) 353–2577 or Terence Plaskon, Environmental Protection Specialist, Office of Human and Natural Environment, (202) 366–0442. FTA is located at 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 9:00 a.m. to 5:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency actions by issuing certain approvals for the public transportation projects listed below. The actions on the projects, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the project to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA administrative record for the projects. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information on the project. Contact information for FTA's Regional Offices may be found at *http://www.fta.dot.gov*.

This notice applies to all FTA decisions on the listed projects as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, NEPA [42 U.S.C. 4321–4375], Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303], Section 106 of the National Historic Preservation Act [16 U.S.C. 470f], and the Clean Air Act [42 U.S.C. 7401–7671q]. This notice does not, however, alter or extend the limitation period for challenges of project decisions subject to previous notices published in the **Federal Register**. The projects and actions that are the subject of this notice are:

1. *Project name and location:* Colonial Road Improvement Project, Village of Thomaston, Nassau County, NY. *Project sponsor:* Metropolitan Transportation Authority (MTA) Long Island Rail Road. *Project description:* The Colonial Road Improvement Project will extend the existing Great Neck pocket track, install a crossover connecting the pocket track with Main Line track, replace the Colonial Road Bridge, and correct drainage deficiencies beneath the Colonial Road Bridge to improve track drainage. *Final agency actions:* No use determination of Section 4(f) resources; Section 106 finding of no adverse effect; project-level air quality conformity, and Finding of No Significant Impact (FONSI), dated March 12, 2013. *Supporting documentation:* Environmental Assessment, dated December 2012.

2. *Project name and location:* Woodward Avenue Streetcar Project, Detroit, MI. *Project sponsor:* Michigan Department of Transportation. *Project description:* The project consists of a 3.3-mile, fixed-rail, at-grade streetcar system located entirely within the right-of-way of Woodward Avenue from Larned Street in downtown Detroit to Chandler Street/Delaware Street, north of Grand Boulevard in New Center. *Final agency actions:* No use determination of Section 4(f) resources; Section 106 Memorandum of Agreement, dated March 22, 2013; project-level air quality conformity; and Amended Record of Decision, dated April 5, 2013. *Supporting documentation:* Supplemental Environmental Assessment, dated February 2013.

3. *Project name and location:* Westside Subway Extension Project, Los Angeles, CA. *Project sponsor:* Los Angeles County Metropolitan Transportation Authority (LACMTA). *Project description:* The project will extend heavy rail transit, in a subway, from the existing Metro Purple Line western terminus at the Wilshire/Western Station to a new western terminus at the Westwood/Veterans Affairs (VA) Hospital Station. LACMTA will construct a geotechnical exploratory test shaft near the planned Wilshire/Fairfax Station in order to study ground conditions and measure gas and soil pressures as part of the pre-construction activities related to the project. This notice only applies to the discrete actions taken by FTA at this time, as described below. Nothing in this notice affects FTA's previous decisions, or notice thereof, for this project. *Final agency actions:* FTA determination that neither a supplemental environmental impact statement nor a supplemental environmental assessment is necessary. *Supporting documentation:* Final Exploratory Shaft Environmental Technical Memorandum, documenting any potential environmental impacts from construction of the exploratory shaft and mitigation measures implemented.

4. *Project name and location:* Crenshaw/LAX Transit Corridor Project, Los Angeles, CA. *Project sponsor:* Los Angeles County Metropolitan Transportation Authority (LACMTA). *Project description:* The project will extend heavy rail transit from the existing Metro Exposition Line at Crenshaw and Exposition Boulevards to the Metro Green Line's Aviation/LAX Station. LACMTA proposes three modifications to the project. These modifications resulted from refinements to design and efforts to reduce cost, to respond to community concerns, reduce right-of-way acquisition, and to improve circulation. The proposed modifications

and refinements include reconfiguration of a mid-block at-grade pedestrian crossing to an undercrossing at Faithful Central Bible Church; reconfiguration of a below-grade trench to an aerial guideway over La Brea Avenue; and elevation of the planned at-grade Florence/La Brea Station to street level. This notice only applies to the discrete actions taken by FTA at this time, as described below. Nothing in this notice affects FTA's previous decisions, or notice thereof, for this project. *Final agency actions:* FTA determination that neither a supplemental environmental impact statement nor a supplemental environmental assessment is necessary. *Supporting documentation:* Supplemental Environmental Technical Memorandum, documenting any potential environmental impacts from the proposed design changes.

Issued on: April 16, 2013.

Lucy Garliauskas,

Associate Administrator for Planning and Environment, Washington, DC.

[FR Doc. 2013–09368 Filed 4–19–13; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA- 2013–0010]

Urbanized Area Formula Program: Proposed Circular

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Availability of Proposed Circular and Request for Comments.

SUMMARY: The Federal Transit Administration (FTA) has placed in the docket and on its Web site, proposed guidance, in the form of a circular, to assist recipients in their implementation of the section 5307 Urbanized Area Formula Program. The purpose of this proposed circular is to provide recipients of FTA financial assistance with instructions and guidance on program administration and the grant application process. The proposed revisions to the existing circular are a result of changes made to the Urbanized Area Formula Program by the Moving Ahead for Progress in the 21st Century Act. By this notice, FTA invites public comment on the proposed circular.

DATES: Comments must be submitted by June 21, 2013. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may submit comments identified by the docket number FTA–2013–0010 by any of the following methods:

- *Federal eRulemaking Portal:* Submit electronic comments and other data to *http://www.regulations.gov.*
- *U.S. Mail:* Send comments to Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building, Ground Floor, at 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations, U.S. Department of Transportation, at (202) 493–2251.

Instructions: The agency name (Federal Transit Administration) and Docket Number (FTA–2013–0010) must be included at the beginning of each submission. If sent by mail, please submit two copies. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties mailing comments should consider using an express mail firm to ensure their prompt filing. If you wish to receive confirmation that FTA received your comments, you must include a self-addressed stamped postcard. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You may review USDOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000, at 65 FR 19477–8 or *http://DocketsInfo.dot.gov.*

FOR FURTHER INFORMATION CONTACT: For program matters, Adam Schildge, Office of Project Management, (202) 366–0778 or *Adam.Schildge@dot.gov.* For legal matters, Rita Maristch, Office of Chief Counsel, (215) 656–7249 or *Rita.Maristch@dot.gov.* Office hours are from 8:30 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Overview
II. Chapter-by-Chapter Analysis
A. Chapter I—Introduction and Background
B. Chapter II—Program Overview
C. Chapter III—General Program Information
D. Chapter IV—Eligible Projects and Requirements
E. Chapter V—Planning and Program Development
F. Chapter VI—Program Management and Administrative Requirements
G. Chapter VII—Other Provisions
H. Tables, Graphs, and Illustrations
I. Appendices

I. Overview

This notice provides a summary of proposed changes to FTA Circular 9030.1D, Urbanized Area Formula Program: Program Guidance and Application Instructions. The section 5307 Urbanized Area Formula Program authorizes Federal financial assistance for public transportation in urbanized areas for capital and planning projects, job access and reverse commute projects, and, in some cases, operating assistance. This program was affected by the Moving Ahead for Progress in the 21st Century Act (MAP–21, Pub. L. 112–141), signed into law on July 6, 2012. FTA is updating the existing circular, 9030. 1D, published on May 10, 2010, to reflect changes in the law.

MAP–21 made several significant changes to Federal transit laws that are applicable across all of FTA's financial assistance programs and reflected in the proposed circular. These changes further several important goals of the Department of Transportation (DOT). Most notably, MAP–21 grants FTA significant new authority to oversee and regulate the safety of public transportation systems throughout the United States. The Act also puts new emphasis on restoring and replacing the Nation's aging public transportation infrastructure by establishing a new State of Good Repair formula program and new asset management requirements. In addition, it aligns Federal funding with key performance goals and tracks recipients' progress towards these goals. Finally, MAP–21 improves the efficiency of program administration through program consolidation and streamlining.

In addition to MAP–21 updates addressed above, and outlined below, the proposed circular updates the organization and wording of the existing circular to improve clarity and to achieve consistency with FTA's other guidance circulars and to reflect other changes made by MAP–21, specifically to the 5307 program. When adopted, the final circular will supersede the existing circular.

This document does not include the proposed circular for which FTA seeks comment; however, an electronic version is available on FTA's Web site, at *www.fta.dot.gov.* Paper copies may be obtained by contacting FTA's Administrative Services Help Desk, at (202) 366–4865.

Following, is a chapter-by-chapter analysis of the substantive changes to the existing circular's content.

II. Chapter-by-Chapter Analysis

A. Chapter I—Introduction and Background

Chapter I of the circular is an introductory chapter that covers general information about FTA, provides a brief history of the 5307 program, and defines terms applicable across all FTA programs.

(1) Definitions

The proposed circular updates the definitions section to include changes and additions made by MAP–21. The following statutory definitions were amended by MAP–21:

- Associated transit improvements (previously ''transit enhancements'')
- Bus rapid transit (BRT) system
- Commuter highway vehicle or vanpool vehicle
- Disability
- Fixed guideway
- Job access and reverse commute project
- Low income individual
- Private provider of public transportation by vanpool
- Public transportation
- Regional transportation planning organization
- Senior

Definitions have also been added to this section for terms that are unclear or currently undefined. Where applicable, we have used the same definitions found in rulemakings or other circulars to ensure consistency.

(2) Program History

This section provides an overview of each piece of legislation that has authorized the 5307 Program. This section has been revised to incorporate a summary of changes made by MAP–21.

B. Chapter II—Program Overview

Chapter II covers general information about the 5307 Program.

(1) Statutory Authority

This section updates the exiting circular to include references to MAP–21. MAP–21 authorized the award of 5307 program funds for certain new and redefined activities including, job access reverse commute projects, operating costs, and associated transit improvements, each of which is discussed further, below.

(2) Census Designation of Urbanized Areas (UZA)

The proposed circular adds this new section which describes the designation of UZAs based on the 2010 Census. Beginning this fiscal year (FY), FY 2013, FTA incorporated the results of the 2010 Census into its formula apportionments. The 2010 Census data shows that the number of UZAs increased from 465 in 2000 to 497 in 2010, and the total population residing in UZAs increased from 195 to 223 million, an increase of approximately 12 percent. As a result, some UZAs have crossed statutorily-mandated population thresholds resulting in changes to the amount of formula funds that those areas can receive, and possibly resulting in changes to eligible uses of those funds.

(3) FTA Role in Program Administration

This section clarifies that funds are apportioned to States and Designated Recipients (DR), only—States for small UZAs (areas between 50,000 and 200,000 in population), and DRs for large UZAs (areas over 200,000 in population). This section also discusses the requirement that large UZA's ensure that the annual Program of Projects complies with the requirements that a portion of apportioned funds be spent on security and associated transit improvement projects. FTA believes that its previous interpretation of these requirements was inaccurate, and now interprets each provision to require their application at the UZA level. In other words, each 1 percent set aside will apply to the 5307 apportionment to the UZA, and not to each 5307 DR. This is because the UZA, and not the designated recipient, is required to certify that 1 percent of the apportionment is set aside for each of these two purposes. Once the DR receives the apportionment, it will allocate the 1 percent requirement among the direct recipients (transit agencies).

(4) Direct Recipient and Subrecipient Eligibility

This new section clarifies the process for selecting and establishing a Designated Recipient (DR), and clarifies the process for allocating funds to direct recipients and for sub-awarding funds to subrecipients. Direct recipients must be a public entity that is legally eligible to apply for FTA funding. If certain requirements are met, a public agency may apply for some or all of a UZA's apportionment.

(5) Subrecipient Arrangements

Because Congress has repealed the former section 5316 JARC program and included job access reveres commute projects within the list of eligible 5307 activities, FTA believes that Congress intended for entities eligible under the former JARC program to be eligible to use MAP–21 5307 program funds for job access reverse commute projects; this would include private non-profit operators of job access reverse commute projects as subrecipients.

(6) Transportation Management Areas (TMAs)

TMAs are not synonymous with large UZAs, which is how the term is currently used in the existing circular. This circular explains that TMAs apply only to the planning requirements.

(7) Relationship to Other Programs

This section adds a discussion on both repealed SAFETEA–LU programs for which funds may still be available, and new MAP–21 programs. The discussion on FHWA flexible funds in the existing circular has been moved to chapter V.

(a) Repealed SAFETEA–LU Programs

This section discusses the relationship between programs repealed by MAP–21 and the 5307 program as amended by MAP–12. Funds previously authorized for programs that were repealed by MAP–21 may remain available for their originally authorized purposes until the statutory period of availability expires, or until the funds are fully expended, rescinded by Congress, or otherwise reallocated.

The following programs were repealed by MAP–21:

- Clean Fuels Grant Program (former section 5308)
- Bus and Bus Facilities Discretionary Program (former section 5309)b)(3)
- Job Access and Reverse Commute Program (former section 5316)
- Paul S. Sarbanes Transit in the Parks Program (former section 5320)
- New Freedom Program (former section 5317)
- Alternatives Analysis Program (former section 5339)

(b) New MAP–21 Programs

This section discusses the relationship between the 5307 program, as amended by MAP–21, and the following programs that are either completely new or were significantly modified by MAP–21.

- Fixed Guideway Capital Investment Program (5309, New and Small Starts, and Core Capacity Improvements)
- Bus and Bus Facilities Formula Program (5339)
- State of Good Repair Formula Program (5337)
- Rural Area Formula Program (5311)
- Transit Oriented Development Pilot Program (section 20005(b) of MAP–21)
- Transportation Alternatives Program (23 U.S.C. 213(b))

- Federal Lands Access Program (23 U.S.C. 204)

C. Chapter III—General Program Information

This chapter discusses in more detail the apportionments for the 5307 program. It also discusses the Federal share of projects costs, local share, other sources of financing, and the new Passenger Ferry Discretionary Grant Program. Discussion of eligible projects was moved from chapter III in the existing to chapter IV in the proposed circular.

(1) Apportionment of Program Funds

In the proposed circular, this section includes the revised apportionment calculations, including the new set-asides and formula calculations established by MAP–21. Section 5336(h) now provides that 3.07% of section 5307 funds available for apportionment are allocated on the basis of low-income persons residing in urbanized areas, with 25 percent of these funds allocated to areas below 200,000 in population and the remaining 75 percent allocated to areas 200,000 and over in population. MAP–21 also increased the percentage of funds allocated on the basis of Small Transit Intensive Cities (STIC) factors from 1 to 1.5 percent. Finally, MAP–21 established a new 0.5 percent takedown from the 5307 program for the State Safety Oversight Grant Program and a $30 million takedown for the new Passenger Ferry Discretionary Grant Program.

(2) Funds Availability

Generally, MAP–21 extended the number of years that apportioned funds remain available for obligation from 3 to 5 additional years from the year in which the funds were apportioned. As a result, most funds are now available for a total of 6 years including the year of apportionment.

(3) Passenger Ferry Grants Discretionary Program

This section of the proposed circular adds a brief introduction of the new Passenger Ferry Discretionary Grant Program. Each fiscal year, a total of $30 million is authorized to be set aside from the 5307 program to support passenger ferry projects that will be selected on a competitive basis.

(4) Federal Share of Project Costs for Certain Projects—Americans With Disabilities Act, Clean Air Act

As a result of MAP–21, the Federal share of project costs is 85 percent for certain projects related to the Americans with Disabilities Act (ADA) and the Clean Air Act (CAA).

(5) Local Share of Project Costs

Generally, and consistent with MAP–21, the proposed circular does not change the local match requirements—there is a 20 percent local match requirement for capital assistance and a 50 percent requirement for operating assistance. However, MAP–21 expanded the category of funds that can be used as local match. In addition to those sources of local match previously authorized under SAFETEA–LU, local match may also be derived from the following newly authorized sources:

- Amounts appropriated or otherwise made available to a department of agency of the Government (other than DOT), such as Community Development Block Grant Funds administered by the Department of Housing and Urban Development.
- Any amount expended by providers of public transportation by vanpool for the acquisition of rolling stock to be used in the recipient's service area, excluding any amounts the provider may have received in Federal, State or local government assistance for such acquisition. The provider is required to have a binding agreement with the public transportation agency to provide service in the relevant UZA.

(6) Alternative Financing—Transportation Infrastructure Financing and Innovation Act (TIFIA)

This section of the proposed circular updates the eligibility criteria for capital projects seeking TIFIA financing, pursuant to section 2002 of MAP–21 (23 U.S.C. 601 *et seq*). Eligible projects include any transit capital project which is anticipated to meet the statutory threshold size.

Chapter IV—Eligible Projects and Requirements

In the proposed circular, project eligibility and requirements was moved from chapter III into a new chapter IV. This chapter discusses the types of projects and activities that may be funded under the 5307 program.

(1) Joint Development Projects

This section has been revised to update the statutory citation, include a definition of joint development, and express the relationship between joint development and private sector participation.

(2) Clean Air Act (CAA) Projects

Vehicles powered by biodiesel fuel or clean fuel are no longer eligible CAA projects.

(3) Public Transportation Safety Certification Training

MAP–21 requires FTA to establish a Public Transportation Safety Certification Training Program. Once established, a recipient may use up to half of 1 percent of their 5307 apportionment towards safety certification training under 49 U.S.C. 5329(c).

(4) Operating Assistance

Recipients in urbanized areas under 200,000 in population may use 5307 program funds for operating assistance at a 50 percent Federal share. There is no cap to the amount that can be used in these areas for operating assistance. Unless specifically authorized, recipients in urbanized areas of 200,000 or more in population are not permitted to use program funds for operating assistance.

Under MAP–21, a special rule allows recipients in urbanized areas with populations of 200,000 or above and that operate 100 or fewer buses in fixed route service during peak hours, to receive a grant for operating assistance subject to a maximum amount per system, subject to the following:

- Public transportation systems that operate a minimum of 76 buses and a maximum of 100 buses in fixed route service during peak service hours may receive operating assistance in an amount not to exceed 50 percent of the share of the apportionment that is attributable to such systems within the urbanized area, as measured by vehicle revenue hours.

Public transportation systems that operate 75 or fewer buses in fixed route service during peak service hours may receive operating assistance in an amount not to exceed 75 percent of the share of the apportionment that is attributable to such systems within the urbanized area, as measured by vehicle revenue hours.

(5) Design and Art in Public Buildings

Under MAP–21, ''public art'' is no longer an eligible associated transit improvement (formerly ''transit enhancement''). However, incorporation of design and artistic considerations into public transportation projects may still be an allowable cost, so long as it is an integral part of the project. For example, an artist may be employed as part of the construction design team, or art can be incorporated into functional elements such as walls, seating, lighting, or railings.

(6) Job Access Reverse Commute Projects

The SAFETEA–LU Job Access and Reverse Commute (JARC) Program, (former section 5316), was repealed by MAP–21; however, job access and reverse commute projects are now eligible under the 5307 program. A job access reverse commute project is a ''transportation project to finance planning, capital, and operating costs that support the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including transportation projects that facilitate the provision of public transportation services from urbanized areas and rural areas to suburban employment locations—49 U.S.C. 5302(9).''

Each potential project must be for the ''development'' or ''maintenance'' of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and employment-related activities and also must be otherwise eligible under the 5307 Program. FTA defines ''development of transportation services'' to mean new projects that were not in service on October 1, 2012. Job access reverse commute projects eligible for funds under section 5307, as amended by MAP–21, must be designed for the target population. New job access and reverse commute projects may include the expansion or extension of an existing service, so long as the new service was designed to support the target populations; however, such projects are not required to be designed for the sole use of the target populations.

This section also proposes new policy that would eliminate from the list of eligible activities/expenses, the car loan program and expenses related to the voucher programs.

Although job access and reverse commute projects are not required to be developed through a coordinated planning process, the project must be identified by the MPO and DR as a job access and reverse commute project in the DR's annual Program of Projects, which must be developed in consultation with interested parties, published with the opportunity for comments, and subject to a public hearing.

The unobligated carryover balances of pre-MAP–21 JARC program funds may be obligated through the period of availability, but must follow the SAFETEA–LU requirements. For example, section 5316 JARC projects must still be derived from a human service public transportation coordinated plan and must also be selected by the DR through an area-wide or statewide competitive selection process. Although not required by law, FTA encourages recipients to continue to use the coordinated planning process to identify and develop job access and reverse commute projects for funding under Section 5307, as amended by MAP–21.

(7) Interest and Debt Financing-Debt Service Reserve

The proposed circular removes the section on Debt Service Reserve because MAP–21 repealed the 5307 debt service reserve pilot program at 49 U.S.C. 5323(e)(4)(A), as amended by SAFETEA–LU.

D. Chapter V—Planning and Program Development

This proposed new chapter would replace chapter V in the existing circular titled ''Coordinated Planning.'' Under SAFETEA–LU, certain eligible projects were required to be developed under a locally developed, coordinated planning process. Under MAP–21, coordinated planning is only a requirement of eligibility under the section 5310 program.

(1) Transportation Management Areas

This section of the proposed circular revises the discussion of TMAs for planning purposes. The proposed circular references the statutory definition of a TMA, which is a UZA with a population of over 200,000 individuals. There is also reference to the joint FTA/FHWA transportation planning regulations at 23 CFR part 40, which include guidelines on determining the boundaries of a Metropolitan Planning Area (MPA).

(2) Performance Based Standards

This new section of the proposed circular discusses the requirements of MAP–21's new broad performance management program which supports the seven national performance goals. The performance management framework attempts to improve project decision-making through performance-based planning and programming and through fostering a transparent and accountable decision-making process for MPOs, States, and providers of public transportation.

(3) Coordinated Planning

This section of the proposed circular updates the language on coordinated planning, which is no longer required for projects funded with 5307 Program funds. However, 5307 recipients who will apply for section 5310 funds are still required to participate in the local planning process for coordinated public transit-human services. Moreover, FTA strongly encourages 5307 recipients to engage in a coordinated planning process.

(4) Availability of FHWA ''Flexible Funds'' for Transit Projects

This section of the proposed circular clarifies the availability of FHWA funds for eligible transit projects. FHWA flexible funds may be available to FTA recipients for planning and capital projects, and operating expenses. This section also clarifies the requirements for transfer of Congestion Mitigation and Air Quality (CMAQ) Improvement Program funds. Generally, funds appropriated for the 5307 program in in FY 2013 and beyond, are no longer authorized to be transferred to FHWA.

(5) Associated Transit Improvements

MAP–21 changed the term ''transit enhancements'' to ''associated transit improvements.'' An associated transit improvement is a project ''designed to enhance public transportation service or use and that [is] physically or functionally related to transit facilities.'' This section of the proposed circular discusses the requirements to expend a percentage of a urbanized area's 5307 program funds on associated transit improvements and also discusses eligible projects.

As previously stated, public art and transit connections to parks within the recipient's transit service area are no longer eligible projects. While Federal transit funds are no longer available to support public art in transit facilities, art can be incorporated into facility design, landscaping, and historic preservation.

(6) Public Transportation Security Projects

This section discusses the public transportation security project certification requirement. The proposed circular limits the list of eligible security projects to those explicitly referenced in MAP–21.

(7) Environmental

This section in the proposed circular has been revised to clarify that recipients should consult with FTA regarding the proper level of environmental review, prior to expending funds for a project.

(8) Undertaking Projects in Advance

The proposed circular revises this section to explain the different

authorities that allow a recipient to incur costs on a project before grant approval, while still retaining their eligibility for reimbursement for eligibility after grant approval. The three types of authorities are Pre-award authority, letters of no prejudice (LONP), and advanced construction authority (ACA). This section discusses the distinction among these three authorities and the terms and conditions that apply equally to all three.

E. Chapter VI—Program Management and Administrative Requirements

(1) Certifications Required by 49 U.S.C. 5307

The proposed circular updates this section to add the requirement that recipients certify compliance with 49 U.S.C. 5329(d), which requires recipients and States to develop and implement a Public Transportation Agency Safety Plan, and 49 U.S.C. 5326, which requires each recipient and subrecipient to develop a Transit Asset Management Plan.

(2) Expenditures on Public Transportation Security

This section discusses the public transportation security projects certification requirement. The security requirement applies to the DR on the UZA apportionment, and not to individual recipients. Therefore, the DR must complete this certification.

(3) FTA Electronic Grants Management System

In this section of the proposed circular, references to FTA's electronic grants management system—TEAM, have been removed in consideration of a new system, currently under development.

(4) Federal Funding Accountability and Transparency Act (FFATA) Requirement

The proposed circular adds this new section which discusses the statutory requirement that a recipient report information about each first tier sub-award over $25,000 by the end of the month following the month the direct recipient makes any sub-award or obligation.

(5) National Transit Database (NTD) Reporting—Waivers

There are no longer any waivers; however, there is a reduced reporting requirement for small systems.

F. Chapter VII—Other Provisions

(1) State Safety Oversight

This section of the proposed circular clarifies the affect that MAP–21 has had on the State Safety Oversight (SSO) Program and the requirements of 49 CFR 659. Section 5330, which authorizes the SSO Program, will be repealed three years from the effective date of the new regulations implementing the new section 5329 safety requirements. Until then, the current requirements of 49 CFR 659 will continue to apply.

G. Tables, Graphs, and Illustrations

There are no proposed changes to the tables, graphs, and illustrations.

H. Appendices

There are no proposed changes to existing appendices.

Issued in Washington, DC, this 15th day of April, 2013.

Peter Rogoff,

Administrator.

[FR Doc. 2013–09333 Filed 4–19–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2013 0044]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SCOUT; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before May 22, 2013.

ADDRESSES: Comments should refer to docket number MARAD–2013–0044. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov*.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SCOUT is:

Intended Commercial Use of Vessel: ''6 passenger day charters''.

Geographic Region: ''Michigan''.

The complete application is given in DOT docket MARAD–2013–0044 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: April 16, 2013.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2013–09327 Filed 4–19–13; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2013 0043]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel FISHIN GAME; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before May 22, 2013.

ADDRESSES: Comments should refer to docket number MARAD–2013–0043. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel FISHIN GAME is:

Intended Commercial Use Of Vessel: Sport fishing excursions with six passengers or less. All fishing will be for sport only.

Geographic Region: ''California, Oregon''. The complete application is given in DOT docket MARAD–2013–0043 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: April 16, 2013.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2013–09328 Filed 4–19–13; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2013–0042]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SEA HAG; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before May 22, 2013.

ADDRESSES: Comments should refer to docket number MARAD–2013–0042. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SEA HAG is:

Intended Commercial Use of Vessel: ''Charter Sport Fishing and Recreational Diving''.

Geographic Region: Connecticut, New York, New Jersey, Delaware, Virginia, Maryland, North Carolina, South Carolina, Georgia, Florida.

The complete application is given in DOT docket MARAD–2013–0042 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may

review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: April 16, 2013.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2013–09329 Filed 4–19–13; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA–2013–0023]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes the collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before June 21, 2013.

ADDRESSES: You may submit comments identified by DOT Docket ID Number NHTSA–2013–0023 using any of the following methods:

Electronic submissions: Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

Mail: Docket Management Facility, M–30, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

Hand Delivery: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. Fax: 1–(202) 493–2251.

Instructions: Each submission must include the Agency name and the Docket number for this Notice. Note that all comments received will be posted without change to *http://www.regulations.gov* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Dr. Kathy Sifrit, Contracting Officer's Technical Representative, Office of Behavioral Safety Research (NTI–132), National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., W46–472, Washington, DC 20590. Dr. Sifrit's phone number is (202) 366–0868 and her email address is *kathy.sifrit@dot.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following: (i) 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; (ii) 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; (iii) How to enhance the quality, utility, and clarity of the information to be collected; and (iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

Older Driver Compliance With Licensing Restrictions

Type of Request—New information collection requirement.

OMB Clearance Number—None.

Form Number—NHTSA 1186.

Requested Expiration Date of Approval—3 years from date of approval.

Summary of the Collection of Information—The National Highway Traffic Safety Administration (NHTSA) proposes to collect information from licensed drivers about their driver license status and driving habits. Participation in the study will be voluntary. Drivers will volunteer for the study by responding to a mailed or individually-delivered descriptive solicitation. The drivers will be asked a series of seven questions to determine eligibility to participate in a study of driving restrictions. A project assistant will then describe the proposed study to those respondents who qualify for the study and answer all questions that the drivers may have. Each driver who meets the criteria for subject selection will then be asked if he or she wishes to participate. If yes, a project assistant will ask the following questions to facilitate participation: ''What is the make, model, and year of your car?'' ''What is your car's Tag number?''(so the installer can identify the car) and ''Will you be spending the next two or three months in the area?''

A system will be installed in the participant's car to measure car usage; this system will collect all remaining data necessary for the study. One device will collect the car's Global Positioning System coordinates and a companion device will capture an image of the driver to confirm the operator on each trip is the study participant.

Description of the Need for the Information and Proposed Use of the Information—NHTSA was established to reduce the number of deaths, injuries, and economic losses resulting from motor vehicle crashes on the Nation's highways. As part of this statutory mandate, NHTSA is authorized to conduct research as a foundation for the development of motor vehicle standards and traffic safety programs.

Some States impose driving restrictions on drivers who have been found to suffer impairments that may affect safety, but it is unclear whether drivers with those restrictions comply. The proposed questions will allow research staff to ensure that prospective participants meet study inclusion criteria and facilitate their study participation. The purpose of the study is to document driving habits of drivers with restrictions imposed by the licensing authority, drivers with restrictions recommended by a certified driving rehabilitation specialist but without imposed restrictions, and a control group of unrestricted drivers of similar age. Analyses of these data will provide information about the extent to which drivers comply with license restrictions and with certified driving rehabilitation specialist recommendations, and whether such restrictions lead to reduced driving exposure. NHTSA will use the information to inform recommendations to the States regarding restricted licensing practices for the purpose of reducing injuries and loss of life on the highway.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)—Respondents will include drivers licensed in the State of Virginia, age 70 years and older. The agency proposes to conduct 240 telephone conversations with respondents to descriptive solicitations to yield 120 participants.

Estimate of the Total Annual Reporting and Record Keeping Burden Resulting from the Collection of Information—The 240 telephone conversations will average 10 minutes in length including introduction, qualifying questions, potential participant questions, logistical questions, and conclusion. The total estimated annual burden will be 40 hours. Participants will incur no costs from the data collection and participants will incur no record keeping burden and no record keeping cost from the information collection.

Authority: 44 U.S.C. Section 3506(c)(2)(A).

Issued on April 17, 2013.

Jeffrey Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2013–09365 Filed 4–19–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Request for Comment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), this notice announces that the Information Collection Request (ICR) abstracted below will be submitted to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the information collection and its expected burden. A **Federal Register** Notice with a 60-day comment period soliciting public comments on the following information collection was published on August 14, 2012 (**Federal Register**/Vol. 77, No. 157/pp. 48608–48609).

DATES: Submit comments to the Office of Management and Budget (OMB) on or before May 22, 2013.

FOR FURTHER INFORMATION CONTACT: Alan Block at the National Highway Traffic Safety Administration, Office of Behavioral Safety Research (NTI–131), W46–499, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Mr. Block's phone number is 202–366–6401 and his email address is *alan.block@dot.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2127–New.

Title: Survey of DWI Courts.

Form No.: NHTSA Form 1175.

Type of Review: Regular.

Respondents: All existing DWI Courts and Hybrid DWI/Drug Courts will be contacted and asked to participate in the survey. The number of such Courts is projected to be approximately 650 at the time the survey is administered. The respondents will be people involved in the running of the DWI Court program. These primarily will be Judges and Court Staff, but may include others involved in specific aspects of the DWI Court program such as treatment providers, law enforcement and probation/parole personnel. Contacted Courts will determine who is appropriate to complete the sections of the questionnaire, and may apportion different sections to different people to complete, if necessary.

Estimated Number of Respondents: A maximum of 650 DWI and Hybrid DWI/Drug Courts will respond to the survey.

Estimated Time per Response: The average amount of time for each Court to complete the survey is estimated at 40 minutes. This includes any time needed to retrieve information.

Total Estimated Annual Burden Hours: 433.33 hours.

Frequency of Collection: The survey will be administered a single time.

Abstract: DWI Courts are a relatively new intervention to combat alcohol-impaired driving and are authorized under MAP–21, the current DOT authorization. Borrowing from the Drug Court Model, they are directed at repeat offenders and offenders having high blood alcohol concentration levels (BACs) at time of arrest. These Courts attack the source of the problem by taking a comprehensive approach to changing behavior that includes treatment and close supervision. There is a body of research that now exists to show that Drug Courts are effective. However, Drug Courts and DWI Courts may treat different populations, and questions about the effectiveness of DWI Courts and their services have yet to be adequately answered.

NHTSA is presently designing a program to evaluate DWI Courts to directly answer key questions pertaining to their effectiveness. But in order to do that, the agency first needs detailed information on how the DWI Courts are operating. This survey is designed to obtain that information. NHTSA proposes to collect information from all known operating DWI Courts and Hybrid DWI/Drug Courts. Each Court will be contacted by mail and/or email and asked to go to a designated Web site to fill out the questionnaire. The most recent figures (from the National Association of Drug Court Professionals (NADCP)) show 598 Courts operating in the United States that are either designated DWI Courts (192) or else Hybrid DWI/Drug Courts (406). That number is projected to increase to approximately 650 Courts by the time the survey is ready to enter the field. The survey will ask about case flow, eligibility criteria, management information systems, program staffing, treatment, testing, courtroom practices, sanctions, and other relevant program characteristics.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for Department of Transportation, National Highway Traffic Safety Administration, or by email at *oira_submission@omb.eop.gov*, or fax: 202–395–5806.

Comments Are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department of Transportation, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication of this notice.

Authority: 44 U.S.C. 3506(c)(2)(A).

Jeffrey Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2013–09366 Filed 4–19–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Information Collection Activities (Complaints, Petitions for Declaratory Orders, and Petitions for Relief Not Otherwise Specified)

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice and request for comments.

SUMMARY: As required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3519 (PRA), the Surface Transportation Board (STB or Board) gives notice of its intent to seek from the Office of Management and Budget (OMB) approval of the information collections required for (1) complaints filed under 49 U.S.C. 721, 10701–10707, 11101 and 11701–11707 and 49 CFR 1111; (2) petitions for declaratory orders under 5 U.S.C. 554(e) and 721; and (3) ''catch all'' petitions (for relief not otherwise specified) under 49 U.S.C. 721 and 49 CFR part 1117. Under these statutory and regulatory sections, the Board provides procedures for persons to make a broad range of claims and to seek a broad range of remedies before the Board. The information collections relevant to these complaints and petitions are described separately below.

For each collection, comments are requested concerning: (1) The accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology when appropriate; and (4) whether the collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility. Submitted comments will be summarized and included in the Board's request for OMB approval.

DATES: Comments on these information collections should be submitted by June 21, 2013.

ADDRESSES: Direct all comments to Marilyn Levitt, Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001, or to *levittm@stb.dot.gov.* When submitting comments, please refer to the title of the collection(s) addressed.

FOR FURTHER INFORMATION CONTACT: Marilyn Levitt at (202) 245–0269 or at *levittm@stb.dot.gov.* [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Relevant STB regulations may be viewed on the STB's Web site under E-Library > Reference: STB Rules, *http://www.stb.dot.gov/stb/elibrary/ref_stbrules.html.*

Subjects: In this notice, the Board is requesting comments on the following information collections:

Description of Collections

Collection Number 1

Title: Complaints under 49 CFR 1111.

OMB Control Number: 2140–00XX.

STB Form Number: None.

Type of Review: Existing collections in use without an OMB control number.

Respondents: Affected shippers, railroads and communities that seek redress for alleged violations related to unreasonable rates, unreasonable practices, service issues, and other statutory claims.

Number of Respondents: 4.

Frequency: On occasion. In Fiscal Year (FY) 2012, there were 5 complaints of this type filed with the Board by respondents.

Total Burden Hours (annually including all respondents): 2,335 hours (estimated hours per complaint (467) × number of FY 2012 complaints (5)).

Total ''Non-hour Burden'' Cost (such as printing, mailing, and messenger costs): $7,310 (estimated ''non-hour burden'' cost per complaint ($1,462) × number of FY 2012 responses (5)).

Needs and Uses: Under the Board's regulations, persons may file complaints before the Board pursuant to 49 CFR part 1111 seeking redress for alleged violations of provisions of the Interstate Commerce Act, Public Law 104–88, 109 Stat. 803 (1995). The required content of a complaint is outlined at 49 CFR 1111.1(a). In the last few years, the most significant complaints filed at the Board allege that railroads are charging unreasonable rates or that they are engaging in unreasonable practices. *See, e.g,* 49 U.S.C 10701, 10704 and 11701. The collection by the Board of these complaints, and the agency's action in conducting proceedings and ruling on the complaints, enables the Board to meet its statutory duty to regulate the rail industry.

Retention Period: Information in these collections is maintained by the Board for 10 years, after which it is transferred to the National Archives as permanent records.

Collection Number 2

Title: Petitions for declaratory orders.

OMB Control Number: 2140–00XX.

STB Form Number: None.

Type of Review: Existing collections in use without an OMB control number.

Respondents: Affected shippers, railroads and communities that seek a declaratory order from the Board to terminate a controversy or remove uncertainty.

Number of Respondents: 7.

Frequency: On occasion. In FY 2012, there were 7 petitions of this type filed with the Board by respondents.

Total Burden Hours (annually including all respondents): 1,281 hours (estimated hours per petition (183) × number of petitions (7)).

Total ''Non-hour Burden'' Cost (such as printing, mailing, and messenger costs): $8,652 (estimated ''non-hour burden'' cost per petition ($1,236) × number of petitions (7)).

Needs and Uses: Under 5 U.S.C. 554(e) and 49 U.S.C. 721, the Board may issue a declaratory order to terminate a controversy or remove uncertainty. Because petitions for a declaratory order cover a broad range of requests, the Board does not prescribe specific instructions for the filing of a petition for declaratory order. The collection by the Board of these petitions for declaratory order enables the Board to meet its statutory duty to regulate the rail industry.

Collection Number 3

Title: Petitions for relief not otherwise provided.

OMB Control Number: 2140–00XX.

STB Form Number: None.

Type of Review: Existing collections in use without an OMB control number.

Respondents: Affected shippers, railroads and communities that seek to address transportation-related issues under the Board's jurisdiction that are not otherwise specifically provided for under the Board's other regulatory provisions.

Number of Respondents: 6.

Frequency: On occasion. In FY 2012, there were 9 petitions of this type filed with the Board by respondents.

Total Burden Hours (annually including all respondents): 220.5 hours (estimated hours per petition (24.5) × number of petitions (9)).

Total ''Non-hour Burden'' Cost (such as printing, mailing, and messenger costs): $630 (estimated ''non-hour burden'' cost per petition ($70) × number of petitions (9)).

Needs and Uses: Under 49 U.S.C. 721 and 49 CFR part 1117 (the Board's catch all petition provision), shippers, railroads, and the public in general may seek relief (such as petitions seeking waivers of the Board's regulations) not otherwise specifically provided for under the Board's other regulatory

provisions. Under § 1117.1, such petitions should contain three items: (a) A short, plain statement of jurisdiction, (b) a short, plain statement of petitioner's claim, and (c) request for relief. The collection by the Board of these petitions enables the Board to more fully meet its statutory duty to regulate the rail industry.

Retention Period: Information in these collections is maintained by the Board for 10 years, after which it is transferred to the National Archives as permanent records.

SUPPLEMENTARY INFORMATION: Under the PRA, a Federal agency conducting or sponsoring a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Under § 3506(c)(2)(A) of the PRA, Federal agencies are required to provide, prior to an agency's submitting a collection to OMB for approval, a 60-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: April 16, 2013.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–09336 Filed 4–19–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Designation of Eighteen Individuals Pursuant to the Sergei Magnitsky Rule of Law Accountability Act of 2012

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of eighteen individuals whose property and interests in property are blocked pursuant to the Sergei Magnitsky Rule of Law Accountability Act of 2012 (Pub. L. 112–208, December 14, 2012) (the ''Magnitsky Act'').

DATES: The designations by the Director of OFAC, pursuant to the Magnitsky Act, of the eighteen individuals identified in this notice were effective on April 12, 2013.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance and Evaluation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treas.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs is available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On December 14, 2012, the President signed the Magnitsky Act. The Magnitsky Act requires the President to submit to certain congressional committees a list of each person the President has determined meet certain criteria set forth in the Magnitsky Act.

Pursuant to Section 406 of the Magnitsky Act, the President is required to block, with certain exceptions, all property and interests in property of a person who is on the list required by section 404(a) of the Magnitsky Act that are in the United States, that come within the United States, or that are or come within the possession or control of any United States person, of persons listed on the list submitted to those congressional committees. The President delegated certain functions under the Magnitsky Act to the Secretary of the Treasury, in consultation with the Secretary of State, on April 5, 2013.

On April 12, 2013, the Director of OFAC designated, pursuant to Section 406 of the Magnitsky Act, eighteen individuals as persons whose property and interests in property are blocked pursuant to the Magnitsky Act.

The listings for these persons on OFAC's List of Specially Designated Nationals and Blocked Persons appear as follows:

Individuals:

1. KRIVORUCHKO, Aleksey (a.k.a. KRIVORUCHKO, Alex; a.k.a. KRIVORUCHKO, Alexei); DOB 25 Aug 1977; POB Moscow Region, Russia (individual) [MAGNIT].
2. KUZNETSOV, Artem (a.k.a. KUZNETSOV, Artyom); DOB 28 Feb 1975; POB Baku, Azerbaijan (individual) [MAGNIT].
3. SILCHENKO, Oleg F.; DOB 25 Jun 1977; POB Samarkand, Uzbekistan (individual) [MAGNIT].
4. STEPANOVA, Olga G.; DOB 29 Jul 1962; POB Moscow, Russia (individual) [MAGNIT].
5. DROGANOV, Aleksey O.; DOB 11 Oct 1975; POB Lesnoi Settlement, Pushkin Area, Moscow Region, Russia (individual) [MAGNIT].
6. KARPOV, Pavel; DOB 27 Aug 1977; POB Moscow, Russia (individual) [MAGNIT].
7. KHIMINA, Yelena; DOB 11 Sep 1953; POB Moscow, Russia (individual) [MAGNIT].
8. KOMNOV, Dmitriy; DOB 17 May 1977; POB Kashira Region, Moscow, Russia (individual) [MAGNIT].
9. LOGUNOV, Oleg; DOB 04 Feb 1962; POB Irkutsk Region, Russia (individual) [MAGNIT].
10. PECHEGIN, Andrey I.; DOB 24 Sep 1965; POB Moscow Region, Russia (individual) [MAGNIT].
11. PODOPRIGOROV, Sergei G.; DOB 08 Jan 1974; POB Moscow, Russia (individual) [MAGNIT].
12. PROKOPENKO, Ivan Pavlovitch; DOB 28 Sep 1973; POB Vinnitsa, Ukraine (individual) [MAGNIT].
13. STASHINA, Yelena (a.k.a. STASHINA, Elena; a.k.a. STASHINA, Helen); DOB 05 Nov 1963; POB Tomsk, Russia (individual) [MAGNIT].
14. TOLCHINSKIY, Dmitri M. (a.k.a. TOLCHINSKY, Dmitry); DOB 11 May 1982; POB Moscow, Russia (individual) [MAGNIT].
15. UKHNALYOVA, Svetlana (a.k.a. UKHNALEV, Svetlana; a.k.a. UKHNALEVA, Svetlana V.); DOB 14 Mar 1973; POB Moscow, Russia (individual) [MAGNIT].
16. VINOGRADOVA, Natalya V.; DOB 16 Jun 1973; POB Michurinsk, Russia (individual) [MAGNIT].
17. BOGATIROV, Letscha (a.k.a. BOGATYREV, Lecha; a.k.a. BOGATYRYOV, Lecha); DOB 14 Mar 1975; POB Atschkoi, Chechen Republic, Russia (individual) [MAGNIT].
18. DUKUZOV, Kazbek; DOB 1974; POB Urus-Martan District, Chechen Republic, Russia (individual) [MAGNIT].

Dated: April 12, 2013.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2013–09369 Filed 4–19–13; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Rehabilitation, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the Veterans' Advisory Committee on Rehabilitation will meet

on April 30–May 2, 2013, in Room 501K at the Department of Veterans Affairs, 1800 G Street NW., Washington, DC. The meeting will begin at 8 a.m. each day and adjourn at 5 p.m. on April 30 and May 1 and at noon on May 2. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the rehabilitation needs of Veterans with disabilities and on the administration of VA's rehabilitation programs.

On April 30, the Committee will receive an overview by the Committee Chair; update on Vocational Rehabilitation and Employment; and discuss the vision for the Committee and the Committee's last report.

On May 1, the Committee members will be provided update briefings on various VA programs designed to enhance the rehabilitative potential of recently-discharged Veterans. Members will also begin consideration of potential recommendations to be included in the Committee's next annual report.

On May 2, the Committee members will receive an annual ethics briefing and discuss meeting presentations and development of Committee recommendations.

No time will be allocated at this meeting for oral presentations from the public. Interested parties should provide written comments for review by the Committee to Teri Nguyen, Designated Federal Officer, VA, Veterans Benefits Administration (28), 810 Vermont Avenue NW., Washington, DC 20420, or via email at *Teri.Nguyen1@va.gov*. In the communication with the Committee, writers must identify themselves and state the organization, association or person(s) they represent. Individuals who wish to attend the meeting should contact Ms. Nguyen at (202) 461–9634.

By Direction of the Secretary.

Dated: April 16, 2013.

Vivian Drake,

Committee Management Officer.

[FR Doc. 2013–09338 Filed 4–19–13; 8:45 am]

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Federal Register

Vol. 78, No. 77

Monday, April 22, 2013

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FEDERAL REGISTER PAGES AND DATE, APRIL

19393–19584 1
19585–19978 2
19979–20212 3
20213–20408 4
20409–20782 5
20783–21014 8
21015–21210 9
21211–21502 10
21503–21816 11
21817–22150 12
22151–22410 15
22411–22766 16
22767–23104 17
23105–23456 18
23457–23670 19
23671–23828 22

CFR PARTS AFFECTED DURING APRIL

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR

Proposed Rules:
1329 23699

3 CFR

Proclamations:
8948 20213
8949 20215
8950 20217
8951 20219
8952 20221
8953 20223
8954 20409
8955 21813
8956 21815
8957 23103
8958 23669

Executive Orders:
13635 (superseded by 13641) 21503
13639 19979
13640 21211
13641 21503

Administrative Orders:
Order of April 10, 2013 22409
Memorandums:
Memo. of May 31, 2011 (revoked by Memo. of March 29, 2013) 20225
Memo. of March 29, 2013 20225
Memo. of April 5, 2013 21213
Memorandum of April 5, 2013 22763
Presidential Determinations:
No. 2013–07 of April 8, 2013 22765

5 CFR

532 21515
1201 .....21517, 23457
1208 23457
9601 22767

Proposed Rules:
733 20497
950 20820

7 CFR

272 20411
457 22411
800 22151
922 21518
923 21520
927 21521
959 23671
985 23673
1437 21015
3201 .....19393, 20783

Proposed Rules:
985 22202
4280 22044

8 CFR

103 22770
208 22770
1292 19400

10 CFR

72 22411
430 21215
431 23336

Proposed Rules:
2 20498
26 22209
50 21275
52 21275
73 .....21567, 23684
429 .....19606, 20832, 22431
430 .....19606, 20502, 20832, 20842
431 20503

12 CFR

240 21019
242 20756
272 19981
Ch. III 22771
615 .....21035, 23438
621 21035
652 21035
Ch. X 21218

Proposed Rules:
246 23162
1026 23171
Ch. XII 23507

13 CFR

Proposed Rules:
Ch. III 22801

14 CFR

25 .....19981, 21037
33 19982
39 .....19983, 20227, 20229, 20234, 21227, 21230, 21233, 21236, 22166, 22168, 22170, 22172, 22175, 22178, 22180, 22182, 22185, 23105, 23107, 23110, 23112, 23114, 23458, 23462, 23465, 23468
71 .....19985, 21043, 21044, 22189, 22190, 22413, 22414, 22415, 22416, 22417
73 21817
95 20783
97 .....21239, 21242
1209 20422

Proposed Rules:
39 .....19628, 20503, 20505, 20507, 20509, 20844, 21072, 21074, 21077, 21079, 21082,

21276, 21279, 21569, 21571, 21573, 21576, 21578, 21854, 22209, 22213, 22215, 22432, 22435, 22439, 22802, 22806, 23685, 23686, 23688, 23690, 23691, 23692, 23694, 23696, 23698
71 .....20846, 21084, 21856
121.....19630

15 CFR

730.....22660
732.....22660
734.....22660
736.....22660
738.....22660
740.....22660
742.....22660
743.....22660
744.....22660
746.....22660
748.....22660, 23472
750.....22660
756.....22660
758.....22660
762.....22660
764.....22660
770.....22660
772.....22660
774.....22660
902.....22950
Proposed Rules:
29.....23699

16 CFR

Proposed Rules:
1112.....20511
1226.....20511

17 CFR

1.....21045, 22418
3.....20788, 22418
5.....22418
9.....22418
11.....22418
23.....20788, 21045
31.....22418
40.....22418
41.....22418
50.....21750
140.....21522, 22418
145.....22418
162.....23638
170.....22418
171.....22418
190.....22418
240.....21046
248.....23638
249.....21046
Proposed Rules:
23.....20848

18 CFR

40.....22773
154.....19409
376.....21245

19 CFR

201.....23474
210.....23474
351.....21246, 22773

20 CFR

Proposed Rules:
638.....19632
670.....19632

21 CFR

73.....19413
510.....19986, 21058
520.....21058
522.....19986, 21058
524.....21058
526.....21058
529.....21058
558.....19986, 21058
600.....19585
1308.....21818
Proposed Rules:
Ch. I.....21085
107.....22442
660.....23508
801.....23508
809.....23508
876.....20268
882.....20268
892.....20268
1308.....21858

22 CFR

120.....21523, 22740
121.....22740
123.....22740
126.....21523

23 CFR

Proposed Rules:
771.....20074

24 CFR

Proposed Rules:
5.....23178
202.....23178

25 CFR

518.....20236
558.....21826
581.....21060
584.....21060
585.....21060
Proposed Rules:
170.....21861

26 CFR

1.....23116, 23487
602.....23116
Proposed Rules:
1 .....19950, 20523, 23183
53.....20523

27 CFR

447.....23675
Proposed Rules:
9.....20544

28 CFR

Proposed Rules:
0.....21862

29 CFR

4022.....22192
Proposed Rules:
15.....19632
4000.....20039
4001.....20039
4043.....20039
4204.....20039
4206.....20039
4231.....20039

30 CFR

48.....23134
250.....20423
1206.....20244
Proposed Rules:
701.....20394, 22451
736.....20394, 22451
737.....20394, 22451
738.....20394, 22451
750.....20394, 22451

32 CFR

103.....20443
105.....21716
182.....21826
226.....21256
706.....22421

33 CFR

100 .....21258, 22193, 22777
117 .....19415, 19585, 20451, 21063, 21064, 21537, 21839, 22423, 23134, 23487, 23488, 23489
165 .....19988, 20454, 20792, 21260, 22195, 22778, 23135, 23489
Proposed Rules:
100 .....19632, 20066, 20277, 20849, 21864, 22808, 22811, 22814
101 .....20289, 20558, 22218
104 .....20289, 20558, 22218
105 .....20289, 20558, 22218
106 .....20289, 20558, 22218
165 .....19431, 20277, 20559, 20852, 23515, 23519

34 CFR

Ch. III.....22780, 22783
Proposed Rules:
Ch. II.....22452
Ch. III.....20069, 22817
Ch. VI.....22467

36 CFR

219.....23491
Proposed Rules:
7.....22470
294.....23522
1280.....20563

37 CFR

1.....19416, 20180
2.....20180
7.....20180
10.....20180
11.....20180
41.....20180
382.....23054
Proposed Rules:
1.....21788
3.....21788

38 CFR

17.....19586
59.....21262
Proposed Rules:
17.....22219, 23702

39 CFR

111.....23137
Proposed Rules:
3001.....22820
3010.....22490

40 CFR

51.....23149
52 .....19421, 19596, 19599, 19602, 19990, 19991, 19994, 19998, 20001, 20244, 20793, 21065, 21537, 21540, 21542, 21545, 21547, 21841, 22197, 22198, 22423, 22785, 23492, 23495, 23677
62.....21846
63.....20246, 23497
70.....19602
80.....22788
81 .....20001, 21547, 22425
82.....20004
98.....19605, 23149
131.....20252
180 .....20029, 20032, 20461, 21267, 22789, 23497
239.....20035
258.....20035
Proposed Rules:
52 .....19434, 19636, 20290, 20855, 20856, 20868, 21281, 21296, 21302, 21580, 21581, 21582, 21583, 21867, 22827, 22840, 23524, 23527, 23704
60.....22126
62.....21871
63.....22370
70.....19636
80.....20881
81 .....20856, 20868, 21583, 22501
82.....21871
98.....19802
239.....20073
258.....20073
450.....19434
721.....23184

42 CFR

68.....20466
88.....22794
433.....19918
Proposed Rules:
411.....21308
488.....20564
489.....20564
1001.....21314

44 CFR

67.....22221, 22222
Proposed Rules:
67.....22221, 22222

45 CFR

60.....20473
61.....20473
Proposed Rules:
155.....20581
1184.....22501

47 CFR

0.....23150
1 .....19424, 21555, 23150
2.....21555
13.....23150
20.....21555
22.....19424, 21555
24.....19424, 21555
27.....19424, 21555
54.....20796, 22198
73.....21565, 21849
76.....20255
80.....23150
87.....23150

90.....19424, 21555
Proposed Rules:
Ch. I.....21879
15.....21320
20.....19442
54.....23192
64.....21891
73.....21337
90.....23529

48 CFR

215.....21850
235.....21850
237.....21850
1552.....22795
Proposed Rules:
4.....23194
12.....23194
22.....23194
52.....23194
226.....22841
252.....22841
1834.....23199
1841.....23199
1846.....23199
1851.....23199
1852.....23199

49 CFR

107.....22798, 23503
171.....22798
501.....23158
571.....21850
Proposed Rules:
575.....20597
622.....20074

50 CFR

17.....22626
217.....20800
622.....22950
635.....20258
640.....22950
648.....20037, 20260, 21071
679.....20037, 23683
Proposed Rules:
17.....20074, 21086, 22506, 23533
20.....21200
216.....20604
218.....22096
223.....20718
224.....20718
229.....23708
600.....20291
622.....20292, 20496
635.....21584
648.....23733

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws*.

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S. 716/P.L. 113–7
To modify the requirements under the STOCK Act regarding online access to certain financial disclosure statements and related forms. (Apr. 15, 2013; 127 Stat. 438)
Last List March 28, 2013

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